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PREFACE

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

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

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

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

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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)

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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).

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, March 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:

ALCOHOLIC BEVERAGES DIVISION[185]

INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]“umbrella”

- Rules on agency procedure, rescind chs 1 to 3, 10, 18, 19 Filed **ARC 8932C** 2/19/25
- Retail alcohol licenses—beer permits—wine permits; license and permit division; transportation and warehouse;
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16 Notice **ARC 8731C** 2/5/25
- Private wine sales, rescind ch 14 Notice **ARC 8730C** 2/5/25

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”

- Rural Iowa primary care loan repayment program, ch 24 Filed **ARC 8867C** 2/19/25
- Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program, rescind ch
25 Filed **ARC 8868C** 2/19/25
- Rural veterinarian loan repayment program, ch 27 Filed **ARC 8869C** 2/19/25
- Mental health professional loan repayment program, ch 31 Filed **ARC 8870C** 2/19/25
- Chiropractic graduate student forgivable loan program, rescind ch 32 Filed **ARC 8871C** 2/19/25
- Iowa teacher shortage loan forgiveness program, rescind ch 35 Filed **ARC 8872C** 2/19/25
- Governor Terry E. Branstad Iowa state fair scholarship program, rescind ch 36 Filed **ARC 8873C** 2/19/25

ECONOMIC DEVELOPMENT AUTHORITY[261]

- Variance procedures for tax increment financing (TIF) housing projects, ch 26 Notice **ARC 8925C** 2/19/25
- Rural housing needs assessment grant program, ch 28 Notice **ARC 8928C** 2/19/25
- Rural innovation grant program, ch 29 Notice **ARC 8927C** 2/19/25
- Empower rural Iowa program, ch 30 Notice **ARC 8929C** 2/19/25
- Regional sports authority districts, ch 38 Notice **ARC 8926C** 2/19/25
- Iowa tourism grant program, ch 42 Notice **ARC 8930C** 2/19/25

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- School safety, ch 13 Filed **ARC 8906C** 2/19/25

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- Appeals and hearings; public records and fair information practices; notices, chs 7, 9, 16 Filed **ARC 8897C** 2/19/25
- Ambulance service—mental health, 78.11 Filed **ARC 8958C** 2/19/25
- Psychiatric medical institution for children—plan of care team, 78.12(2), 78.29(2), 85.3(3), 85.6(3), 85.22(3),
85.24(3) Filed **ARC 8959C** 2/19/25
- Child support promoting opportunities for parents program, ch 94 Filed **ARC 8960C** 2/19/25
- Collections, child support services, ch 95 Filed **ARC 8961C** 2/19/25
- Information and records, ch 96 Filed **ARC 8962C** 2/19/25
- Collection services center, ch 97 Filed **ARC 8963C** 2/19/25
- Support enforcement services, ch 98 Filed **ARC 8964C** 2/19/25
- Support establishment and adjustment services; child support guidelines, ch 99 Filed **ARC 8965C** 2/19/25
- Child support promoting opportunities for parents program; establishment of paternity and support, ch
100 Filed **ARC 8966C** 2/19/25
- Adjustment and modification of support, ch 101 Filed **ARC 8967C** 2/19/25
- Suspension and reinstatement of support, ch 102 Filed **ARC 8968C** 2/19/25
- Payments for foster care, 156.6(1), 156.7 Filed **ARC 8969C** 2/19/25

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Dependent adult abuse in facilities and programs, ch 52 Notice **ARC 8905C** 2/19/25
- Bingo, ch 103 Notice **ARC 8849C** 2/19/25
- Model rules for contested cases before licensing boards and settlements, ch 506 Notice **ARC 8953C** 2/19/25
- Continuing education for podiatrists, 702.2(1) Notice **ARC 8874C** 2/19/25
- Continuing education for orthotists, prosthetists, and pedorthists, 705.2(4) Notice **ARC 8881C** 2/19/25

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Continuing education for chiropractic physicians, 844.2(4)	<u>Notice</u>	ARC 8956C	2/19/25
Behavioral health professionals licensing; licensure of psychologists; licensure of social workers, adopt ch 880; rescind chs 885, 891, 895	<u>Notice</u>	ARC 8878C	2/19/25
Continuing education for marital and family therapists, mental health counselors, social workers, and psychologists; continuing education for psychologists; continuing education for marital and family therapists and mental health counselors; continuing education for social workers, adopt ch 881; rescind chs 886, 892, 896	<u>Notice</u>	ARC 8876C	2/19/25
Discipline for marital and family therapists, mental health counselors, behavior analysts, psychologists, and social workers; discipline for psychologists; discipline for marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts; discipline for social workers, adopt ch 882; rescind chs 887, 893, 898	<u>Notice</u>	ARC 8875C	2/19/25
Prescribing psychologists, adopt ch 883; rescind ch 889	<u>Notice</u>	ARC 8877C	2/19/25
Practice of social workers, psychologists, marriage and family therapists, and mental health counselors; practice of psychology; licensure of marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts; practice of social workers, adopt ch 884; rescind chs 888, 891, 897	<u>Notice</u>	ARC 8880C	2/19/25
Continuing education for sign language interpreters and transliterators, 962.2(6)	<u>Notice</u>	ARC 8954C	2/19/25
Licensure of employers for sign language interpreters and transliterators, ch 965	<u>Notice</u>	ARC 8955C	2/19/25
Licensure of nursing home administrators—provisional license or appointment, 980.5	<u>Notice</u>	ARC 8948C	2/19/25
Continuing education for nursing home administration, 981.2(1)	<u>Notice</u>	ARC 8949C	2/19/25

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Multifamily housing, ch 3	<u>Filed</u>	ARC 8901C	2/19/25
Low-income housing tax credits; senior living revolving loan program; Iowa aftercare services rent subsidy program; transitional housing revolving loan program; council on homelessness; public service shelter grant fund; Iowans helping Iowans housing assistance program, rescind chs 12, 20, 22, 23, 31, 36, 40	<u>Filed</u>	ARC 8902C	2/19/25
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Boiler and pressure vessel board petitions for rule making, rescind ch 82	<u>Filed</u>	ARC 8884C	2/19/25
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General requirements for all objects, ch 91	<u>Filed</u>	ARC 8894C	2/19/25
Power boilers, ch 92	<u>Filed</u>	ARC 8888C	2/19/25
Miniature power boilers installed prior to September 20, 2006, ch 93	<u>Filed</u>	ARC 8889C	2/19/25
Steam heating boilers, hot water heating boilers and hot water supply boilers, ch 94	<u>Filed</u>	ARC 8890C	2/19/25
Unfired steam pressure vessels, ch 96	<u>Filed</u>	ARC 8891C	2/19/25

LOTTERY AUTHORITY, IOWA[531]

Agency reorganization, rescind chs 1, 2, 11 to 14, 18 to 21	<u>Filed</u>	ARC 8933C	2/19/25
Rules on agency procedure, rescind chs 3 to 6	<u>Filed</u>	ARC 8934C	2/19/25

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Maternal deaths, rescind ch 5	<u>Filed</u>	ARC 8970C	2/19/25
State plumbing code, ch 25	<u>Filed</u>	ARC 8913C	2/19/25
State mechanical code, ch 61	<u>Filed</u>	ARC 8914C	2/19/25
Renovation, remodeling, and repainting—lead hazard notification process, ch 69	<u>Filed</u>	ARC 8907C	2/19/25
Lead-based paint activities, ch 70	<u>Filed</u>	ARC 8908C	2/19/25
General rules for migratory labor camps, ch 81	<u>Filed</u>	ARC 8909C	2/19/25
State mortality review committee, ch 90	<u>Filed</u>	ARC 8971C	2/19/25
Iowa domestic abuse death review team, rescind ch 91	<u>Filed</u>	ARC 8972C	2/19/25
Iowa fatality review committee, rescind ch 92	<u>Filed</u>	ARC 8973C	2/19/25
Interagency coordinating council for the state medical examiner, rescind ch 124	<u>Filed</u>	ARC 8974C	2/19/25

PUBLIC SAFETY DEPARTMENT[661]

Liquefied petroleum gas, ch 226	<u>Filed</u>	ARC 8910C	2/19/25
Liquefied natural gas, ch 228	<u>Filed</u>	ARC 8911C	2/19/25
Manufacturing, storage, handling, use of explosive materials, and licensing for commercial explosive contractors and blasters, adopt ch 231; rescind ch 235	<u>Filed</u>	ARC 8912C	2/19/25

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Sports wagering; fantasy sports contests, 13.2, 13.5, 13.6(3), 14.7(2), 14.8	<u>Filed</u>	ARC 8892C	2/19/25

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

Definitions, 2.1	<u>Notice</u>	ARC 8850C	2/19/25
Broker license—continuing education, 3.4	<u>Notice</u>	ARC 8852C	2/19/25
Salesperson license—continuing education, 4.4	<u>Notice</u>	ARC 8851C	2/19/25
Offices and management, amendments to ch 7	<u>Notice</u>	ARC 8853C	2/19/25
Closing a real estate business—brokerage agreements, 8.1(3)	<u>Notice</u>	ARC 8854C	2/19/25
Advertising, 10.1	<u>Notice</u>	ARC 8855C	2/19/25
Brokerage agreements, 11.1 to 11.56	<u>Notice</u>	ARC 8856C	2/19/25
Disclosure of relationships—brokerage agreements, compensation negotiation, 12.2 to 12.4, 12.5(4)“b,” 12.6, 12.7(1)	<u>Notice</u>	ARC 8857C	2/19/25
Prelicense and continuing education—brokerage agreements, 16.4(2), 16.5(1), 16.6	<u>Notice</u>	ARC 8858C	2/19/25
Failure to have a brokerage agreement—civil penalty, 18.14(5)	<u>Notice</u>	ARC 8859C	2/19/25
Unlawful practices, 21.2	<u>Notice</u>	ARC 8860C	2/19/25
Wholesaling of residential property, ch 22	<u>Notice</u>	ARC 8861C	2/19/25

REVENUE DEPARTMENT[701]

Rules on agency procedure, adopt chs 1 to 7; amend ch 201	<u>Filed</u>	ARC 8944C	2/19/25
Forms and communications, ch 8	<u>Filed</u>	ARC 8945C	2/19/25
Interest, penalty, and exceptions to penalty, ch 10	<u>Filed</u>	ARC 8946C	2/19/25
Tax administration, adopt ch 11; amend ch 202	<u>Filed</u>	ARC 8947C	2/19/25
Nonlocal business entity bond forfeitures, ch 28	<u>Filed</u>	ARC 8915C	2/19/25
General requirements, ch 1000	<u>Notice</u>	ARC 8726C	2/5/25
Alcohol product management and warehousing, ch 1001	<u>Notice</u>	ARC 8725C	2/5/25
Personal importation of alcoholic beverages, ch 1002	<u>Notice</u>	ARC 8724C	2/5/25
Trade practices, ch 1003	<u>Notice</u>	ARC 8723C	2/5/25
Miscellaneous operational rules of the lottery, ch 1100	<u>Filed</u>	ARC 8916C	2/19/25
Prizes, ch 1101	<u>Filed</u>	ARC 8917C	2/19/25
Licensing, ch 1102	<u>Filed</u>	ARC 8918C	2/19/25
Responsibilities of retailers, ch 1103	<u>Filed</u>	ARC 8919C	2/19/25
Scratch ticket and instaplay ticket general rules, ch 1104	<u>Filed</u>	ARC 8920C	2/19/25
Pull-tab ticket general rules, ch 1105	<u>Filed</u>	ARC 8921C	2/19/25
Computerized games—general rules, ch 1106	<u>Filed</u>	ARC 8922C	2/19/25
Drawings and contests, ch 1107	<u>Filed</u>	ARC 8923C	2/19/25

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Organization; administrative elements, amend ch 1; adopt ch 18	<u>Filed</u>	ARC 8924C	2/19/25

TRANSPORTATION DEPARTMENT[761]

Farm-to-market review board, ch 101	<u>Filed</u>	ARC 8935C	2/19/25
County and city bridge construction funds, ch 160	<u>Filed</u>	ARC 8936C	2/19/25
Personalized and special registration plates, ch 401	<u>Filed</u>	ARC 8937C	2/19/25
Authorized emergency vehicle certificate of designation, ch 451	<u>Filed</u>	ARC 8938C	2/19/25
Financial responsibility, ch 640	<u>Filed</u>	ARC 8939C	2/19/25
Financial liability coverage cards, ch 641	<u>Filed</u>	ARC 8940C	2/19/25
Aeronautics administration; airport improvement program; air service development program; commercial service vertical infrastructure program; general aviation vertical infrastructure program, adopt ch 700; rescind chs 710, 715, 716, 717			
	<u>Filed</u>	ARC 8941C	2/19/25
Iowa airport registration, ch 720	<u>Filed</u>	ARC 8942C	2/19/25
Aircraft registration, ch 750	<u>Filed</u>	ARC 8943C	2/19/25

UTILITIES COMMISSION[199]

Intrastate gas pipelines and underground gas storage, ch 10	<u>Notice</u>	ARC 8866C	2/19/25
Electric lines, ch 11	<u>Filed</u>	ARC 8898C	2/19/25
Hazardous liquid pipelines and underground storage, ch 13	<u>Filed</u>	ARC 8899C	2/19/25
Accounting, ch 16	<u>Notice</u>	ARC 8931C	2/19/25
Service supplied by rate-regulated electric utilities, ch 20	<u>Notice</u>	ARC 8879C	2/19/25
Ratemaking principles proceeding, ch 41	<u>Filed</u>	ARC 8900C	2/19/25

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Retired and senior volunteer program (RSVP), rescind ch 7	<u>Notice</u>	ARC 8577C	2/19/25

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

AGING, DEPARTMENT ON[17]

Commission on aging; aging and disability resource center; rescind chs 3, 23

IAB 2/5/25

Regulatory Analysis

Microsoft Teams
Meeting ID: 221 098 147 560
Passcode: LZ7452C4

February 25, 2025
11 a.m.

ALCOHOLIC BEVERAGES DIVISION[185]

Retail alcohol licenses—beer permits, wine permits; license and permit division; transportation and warehouse; personal importation of alcoholic liquor, wine, and beer; trade practices, rescind chs 4, 5, 8, 9, 16; private wine sales, rescind ch 14
IAB 2/5/25 **ARCs 8730C, 8731C**

Via videoconference call
meet.google.com/cec-wnfw-kxv
Hoover State Office Building

February 25, 2025
10 to 11 a.m.

Via videoconference call
meet.google.com/rxw-nuwh-sdj
Hoover State Office Building

February 25, 2025
2 to 3 p.m.

COLLEGE STUDENT AID COMMISSION[283]

Iowa national guard service scholarship program; Iowa national guard master's degree scholarship program, adopt ch 20; rescind ch 29
IAB 2/19/25

Regulatory Analysis

State Board Room
Grimes State Office Building
Des Moines, Iowa

March 26, 2025
4 p.m.

Teach Iowa scholar program, ch 28; Iowa national guard student loan repayment program, rescind ch 30
IAB 2/19/25

Regulatory Analyses

Room B50
Grimes State Office Building
Des Moines, Iowa

March 11, 2025
4 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Variance procedures for tax increment financing (TIF) housing projects, ch 26
IAB 2/19/25 **ARC 8925C**

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

March 11, 2025
10 to 10:15 a.m.

March 13, 2025
1 to 1:15 p.m.

Rural housing needs assessment grant program, ch 28; rural innovation grant program, ch 29; empower rural Iowa program, ch 30
IAB 2/19/25 **ARCs 8927C through 8929C**

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

March 11, 2025
10:15 to 10:30 a.m.

March 13, 2025
1:15 to 1:30 p.m.

Regional sports authority districts, ch 38
IAB 2/19/25 **ARC 8926C**

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

March 11, 2025
10:30 to 10:45 a.m.

March 13, 2025
1:30 to 1:45 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Iowa tourism grant program, ch 42
IAB 2/19/25 **ARC 8930C**

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation
may be found at [opportunityiowa.gov/about/
iowa-economic-development-authority/ieda-red-
tape-review](https://opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review)

March 11, 2025
10:45 to 11 a.m.

March 13, 2025
1:45 to 2 p.m.

HUMAN RIGHTS DEPARTMENT[421]

Functions of division, rescind ch 40;
Hall of fame, rescind ch 41
IAB 2/5/25 **ARCs 8895C, 8896C**

Microsoft Teams
Meeting ID: 293 791 757 499
Passcode: J89nS3mT

February 25, 2025
10:30 a.m.

Microsoft Teams
Meeting ID: 231 190 332 126
Passcode: pT22DL3n

February 25, 2025
2:30 p.m.

HUMAN SERVICES DEPARTMENT[441]

Behavioral health services, rescind chs
25, 34, adopt chs 300 to 302, 304,
305, 310
IAB 2/5/25
Regulatory Analysis

Microsoft Teams
Meeting ID: 216 732 111 056
Passcode: Ww7oS3uS

February 25, 2025
3 p.m.

Mental health institutes and resource
centers, chs 28 to 30
IAB 2/5/25
Regulatory Analysis

Microsoft Teams
Meeting ID: 235 677 637 435
Passcode: Nv7Ti9Jq

February 25, 2025
9:30 a.m.

Disability services definitions; disability
services advisory councils; disability
services; aging and disability resource
centers, chs 221 to 224, 229
IAB 2/5/25
Regulatory Analysis

Microsoft Teams
Meeting ID: 221 098 147 560
Passcode: LZ7452C4

February 25, 2025
11 a.m. to 12 noon

INSPECTIONS AND APPEALS DEPARTMENT[481]

Dependent adult abuse in facilities and
programs, ch 52
IAB 2/19/25 **ARC 8905C**

6200 Park Avenue, Suite 100
Des Moines, Iowa

March 25, 2025
10 to 10:30 a.m.

March 26, 2025
10 to 10:30 a.m.

Bingo, ch 103
IAB 2/19/25 **ARC 8849C**

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

March 11, 2025
10:30 to 11 a.m.

March 13, 2025
8:30 to 9 a.m.

Continuing education for podiatrists,
orthotists, prosthetists, and
pedorthists, 702.2(1), 705.2(4)
IAB 2/19/25 **ARCs 8874C, 8881C**

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

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

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Speech pathologists and audiologists— hearing aid dispensing, continuing education, 741.2, 742.2 IAB 2/19/25 ARC s 8950C, 8952C	6200 Park Avenue, Suite 100 Des Moines, Iowa	March 11, 2025 2 to 2:20 p.m.
Continuing education for optometrists, 761.2(1) IAB 2/19/25 ARC 8951C	6200 Park Avenue, Suite 100 Des Moines, Iowa	March 11, 2025 11 to 11:20 a.m.
Continuing education for physician assistants, 782.2(1) IAB 2/19/25 ARC 8957C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Via videoconference call: us02web.zoom.us/j/84473453569? pwd=o1mwNiyCBmaIvM2fVrechzJslHAaVp.1	March 11, 2025 12 noon to 12:30 p.m.
Continuing education for physical therapists and physical therapist assistants, 803.2(3) IAB 2/19/25 ARC 8862C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Via videoconference call: us02web.zoom.us/j/83307206230? pwd=ApbCK3Sky3WTlJNQguXKxEEia8mtur.1 Meeting ID: 833 0720 6230	March 11, 2025 12:30 to 1 p.m.
Continuing education for occupational therapists and occupational therapy assistants, 805.2(3) IAB 2/19/25 ARC 8863C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Via videoconference call: us02web.zoom.us/j/87844989258? pwd=T0t816lCbRMPnoFTiWnIwehUdYA3jA.1 Meeting ID: 878 4498 9258	March 11, 2025 1 to 1:30 p.m.
Continuing education for chiropractic physicians, 844.2(4) IAB 2/19/25 ARC 8956C	6200 Park Avenue, Suite 100 Des Moines, Iowa	March 11, 2025 11:30 a.m. to 12 noon
Behavioral health professionals licensing; continuing education— marital and family therapists, mental health counselors, social workers, psychologists; discipline—marital and family therapists, mental health counselors, behavior analysts, psychologists, social workers; prescribing psychologists, practice— social workers, psychologists, marriage and family therapists, mental health counselors, adopt chs 880 to 884; rescind chs 885 to 889, 891 to 893, 895 to 898 IAB 2/19/25 ARC s 8875C, 8876C, 8877C, 8878C, 8880C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	March 11, 2025 9 to 9:30 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Sign language interpreters and
translators—continuing education,
licensure of employers, 962.2(6); ch
965
IAB 2/19/25 **ARCs 8954C, 8955C**

6200 Park Avenue, Suite 100
Des Moines, Iowa

March 11, 2025
2:40 to 3 p.m.

Licensure of nursing home
administrators—provisional license or
appointment; continuing education for
nursing home administration, 980.5,
981.2(1)
IAB 2/19/25 **ARCs 8948C, 8949C**

6200 Park Avenue, Suite 100
Des Moines, Iowa

March 11, 2025
2:20 to 2:40 p.m.

INSURANCE DIVISION[191]

Timely payment of pharmacy claims,
59.3
IAB 2/5/25
Regulatory Analysis

Suite 100
1963 Bell Avenue
Des Moines, Iowa

February 28, 2025
11 a.m.

IOWA FINANCE AUTHORITY[265]

Contested cases, ch 7
IAB 2/19/25
Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation
may be found at [opportunityiowa.gov/about/
iowa-finance-authority/ifa-red-tape-review](https://opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review)

March 11, 2025
11:15 to 11:30 a.m.

Purchasing, ch 15
IAB 2/19/25
Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation
may be found at [opportunityiowa.gov/about/
iowa-finance-authority/ifa-red-tape-review](https://opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review)

March 11, 2025
11:30 to 11:45 a.m.

Petition for declaratory order, ch 16
IAB 2/19/25 **ARC 8904C**

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation
may be found at [opportunityiowa.gov/about/
iowa-finance-authority/ifa-red-tape-review](https://opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review)

March 11, 2025
11 to 11:15 a.m.
March 13, 2025
2 to 2:15 p.m.

Shelter assistance fund, ch 41
IAB 2/19/25
Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation
may be found at [opportunityiowa.gov/about/
iowa-finance-authority/ifa-red-tape-review](https://opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review)

March 11, 2025
11:45 a.m. to 12 noon

Emergency solutions grant program, ch
42
IAB 2/19/25
Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online participation
may be found at [opportunityiowa.gov/about/
iowa-finance-authority/ifa-red-tape-review](https://opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review)

March 11, 2025
12 noon to 12:15 p.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and health
standards—civil penalties, 3.11(1)
IAB 2/19/25
Regulatory Analysis

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

March 11, 2025
9 to 9:15 a.m.

LABOR SERVICES DIVISION[875](cont'd)

Federal occupational safety and health standards for hazardous chemicals—adoption by reference, 10.4
IAB 2/5/25 **ARC 8864C**

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

February 25, 2025
9 to 9:15 a.m.

February 26, 2025
9 to 9:15 a.m.

REAL ESTATE COMMISSION[193E]

Definitions, 2.1; broker license—continuing education, 3.4; salesperson license—continuing education, 4.4; offices and management, amendments to ch 7; closing a real estate business—brokerage agreements, 8.1(3); advertising, 10.1; brokerage agreements, 11.1 to 11.56; disclosure of relationships—brokerage agreements, compensation negotiation, 12.2 to 12.4, 12.5(4)“b,” 12.6, 12.7(1); prelicense and continuing education—brokerage agreements, 16.4(2), 16.5(1), 16.6; failure to have a brokerage agreement—civil penalty, 18.14(5); unlawful practices, 21.2; wholesaling of residential property, ch 22
IAB 2/19/25 **ARC 8850C** through **ARC 8859C**

6200 Park Avenue, Suite 100
Des Moines, Iowa
Via videoconference call:
meet.google.com/zqb-qnex-nyz
Or dial: 510.766.1166
PIN: 607867062

March 11, 2025
1:30 to 2 p.m.

REVENUE DEPARTMENT[701]

Inheritance tax; Iowa estate tax; generation skipping transfer tax, adopt ch 900; rescind chs 901, 902
IAB 2/19/25
Regulatory Analysis

Via videoconference call
meet.google.com/scy-rkgw-fup

March 12, 2025
2 to 3 p.m.

General requirements, ch 1000; alcohol product management and warehousing, ch 1001; personal importation of alcoholic beverages, ch 1002; trade practices, ch 1003
IAB 2/5/25 **ARC 8723C** through **ARC 8724C**

Via videoconference call
meet.google.com/cec-wnfw-kxv
Via videoconference call
meet.google.com/rxw-nuwh-sdj

February 25, 2025
10 to 11 a.m.

February 25, 2025
2 to 3 p.m.

TRANSPORTATION DEPARTMENT[761]

Warning lights on vehicles or equipment in road work zones, ch 135
IAB 2/5/25
Regulatory Analysis

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 414 627 489

February 25, 2025
1 to 1:30 p.m.

Special permits for operation and movement of vehicles and loads of excess size and weight, ch 511
IAB 2/5/25
Regulatory Analysis

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 151 891 122

February 28, 2025
1 to 1:30 p.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

For-hire intrastate motor carrier authority, ch 524 IAB 2/5/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 262 987 526	February 28, 2025 9 to 9:30 a.m.
For-hire interstate motor carrier authority, ch 529 IAB 2/5/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 622 454 376	February 28, 2025 11 to 11:30 a.m.
Application for license, ch 601 IAB 2/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 639 996 349	March 13, 2025 1 to 1:30 p.m.
Classes of driver's licenses, ch 602 IAB 2/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 750 530 221	March 14, 2025 1 to 1:30 p.m.
Commercial driver licensing, ch 607 IAB 2/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 909 649 929	March 14, 2025 2 to 2:30 p.m.
Driver's licenses for undercover law enforcement officers, ch 625 IAB 2/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 940 294 593	March 14, 2025 3 to 3:30 p.m.

UTILITIES COMMISSION[199]

Intrastate gas pipelines and underground gas storage, ch 10 IAB 2/19/25 ARC 8866C	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	March 17, 2025 2 to 4 p.m.
	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	March 31, 2025 2 to 4 p.m.
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.
Accounting, ch 16 IAB 2/19/25 ARC 8931C	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	April 1, 2025 9 to 11 a.m.
	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	April 14, 2025 9 to 11 a.m.

UTILITIES COMMISSION[199](cont'd)

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 25, 2025
9 to 11 a.m.

Service supplied by rate-regulated
electric utilities, ch 20
IAB 2/19/25 **ARC 8879C**

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

March 11, 2025
9 to 11 a.m.

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

March 25, 2025
9 to 11 a.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.

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Retired and senior volunteer program
(RSVP), rescind ch 7
IAB 2/19/25 **ARC 8577C**

Microsoft Teams
Meeting ID: 268 409 030 879
Passcode: GC7mn6SU
Microsoft Teams
Meeting ID: 296 518 166 153
Passcode: C8Ux6zU3

March 11, 2025
10:30 to 11 a.m.

March 11, 2025
2:30 to 3 p.m.

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****

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]
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 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]
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IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
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REVENUE DEPARTMENT[701]
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SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
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WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and Workforce Development Center Administration Division[877]

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapters 20 and 29
“Iowa National Guard Service Benefits Programs”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.210

State or federal law(s) implemented by the rulemaking: Iowa Code sections 256.210 and 256.211

Public Hearing

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

March 26, 2025
4 p.m.

State Board Room
Grimes State Office Building
Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission is proposing to rescind Chapters 20 and 29 and to adopt a new Chapter 20 pursuant to Executive Order 10. New Chapter 20 is proposed to consolidate the provisions from the two existing chapters. New Chapter 20 ensures the Commission meets the requirements set forth in law by adopting rules for the administration of the scholarships for members of the Iowa National Guard. This proposed rulemaking establishes the eligibility criteria and awarding of funds for the scholarship and describes the process, procedures, and duties of the Commission; the Iowa National Guard; applicants; and institutions.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

In general, the proposed rulemaking does not impose requirements that would add administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive scholarships and articulates the awarding of funds and general provisions of eligibility to align with other state-funded scholarships and grants. The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the scholarship. This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges/universities that score highest on the risk assessment. This rulemaking does not increase the number of eligible institutions that will be selected for a

compliance review. Thus, there would be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

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

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

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

- **Quantitative description of impact:**

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

- **Qualitative description of impact:**

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

3. Costs to the State:

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

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

- **Anticipated effect on state revenues:**

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

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

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

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

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

6. Alternative methods considered by the agency:

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

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

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

Alternative methods were rejected because they would lead to additional burden on students, eligible institutions, and the Commission.

Small Business Impact

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

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

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

The proposed rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
IOWA NATIONAL GUARD BENEFITS PROGRAMS

283—20.1(256) Definitions. As used in this chapter:

“Eligible institution” means the same as described in Iowa Code section 256.210(1).

“Eligible master’s degree program of study” means a master’s degree program in science, technology, engineering, and mathematics-related military occupational specialties or air force specialty codes pursuant to Iowa Code section 256.211(1) *“a.”*

“Federal active duty” means military duty performed pursuant to orders issued under Title 10, United States Code (as of July 1, 2024), other than for training.

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

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

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

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

283—20.2(256) Iowa national guard service scholarship.

20.2(1) Eligible applicant. An eligible applicant is an Iowa resident, as determined by the adjutant general, who enrolls full-time or part-time in a program of study at an eligible institution and who meets the award eligibility criteria approved by the adjutant general and the following provisions:

a. Completes the applications the Iowa national guard deems necessary on or before the date established by the Iowa national guard, except that an individual who was on federal active duty at the time of an application deadline will have 30 days to apply upon return to Iowa from active duty.

b. Meets the eligibility criteria in Iowa Code section 256.210, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

20.2(2) Awarding of funds.

a. Selection criteria. All eligible applicants will be considered for an award.

b. Maximum award and extent of award. Eligible applicants may receive awards for no more than 120 semester credit hours attributable to the program of study unless the applicants meet the provisions of Iowa Code section 256.210(3) “a”(2).

(1) The maximum award for full-time students will not exceed the undergraduate Iowa resident tuition rate at Iowa regent universities or the tuition charged to the eligible applicant, whichever is lower.

(2) All credit hours within a term of enrollment to which a scholarship is applied will be reported to the commission within the state-defined payment period.

c. Awarding process.

(1) The Iowa national guard will verify the eligibility of eligible applicants. An eligibility decision by the adjutant general is final.

(2) The commission will designate eligible applicants for awards and provide eligible institutions with rosters of designated eligible applicants.

(3) The commission will notify recipients and eligible institutions of the awards. Eligible institutions will notify the student of the award amount, the state program from which funding is being provided and stating that the award is contingent on the availability of state funds.

(4) Eligible institutions will apply awards to cover expenses identified in Iowa Code section 256.210(5).

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

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

(7) The commission will periodically investigate and review compliance of eligible institutions participating in this program with the criteria established in Iowa Code section 256.210 and this rule.

283—20.3(256) Iowa national guard master’s degree service scholarship. In the event that the adjutant general authorizes the expenditure of unencumbered or unobligated funds from Iowa Code section 256.210(6) for the recruitment or retention of individuals by providing a scholarship award to an eligible member of the Iowa national guard, this chapter will be used to administer authorized scholarships. The adjutant general will select program recipients and authorize scholarship awards under this chapter. The decision of the adjutant general is final.

20.3(1) Eligible applicant. An eligible applicant is an Iowa resident, as determined by the adjutant general, who enrolls in an eligible program of study at an eligible institution and who meets the award eligibility criteria approved by the adjutant general and the following provisions:

a. Completes the applications the Iowa national guard deems necessary on or before the date established by the Iowa national guard, except that an individual who was on federal active duty at the time of an application deadline will have 30 days to apply upon return to Iowa from active duty.

b. Meets the eligibility criteria in Iowa Code section 256.211(1) “a” and 256.211(3), meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

20.3(2) Awarding of funds.

a. Selection criteria. All eligible applicants will be considered for an award.

b. Maximum award and extent of award. Eligible applicants may receive awards for no more than 36 semester credit hours, or the equivalent, attributable to the eligible program of study.

(1) The maximum award will not exceed the Iowa resident graduate-level tuition rate at Iowa regent universities or the tuition charged to the eligible applicant, whichever is lower.

(2) All credit hours within a term of enrollment to which a scholarship is applied will be reported to the commission within the state-defined payment period.

c. Awarding process. The college student aid commission adopts the awarding process in paragraph 20.2(2) “c” with the following exception: In lieu of “Iowa Code section 256.210” in subparagraph 20.2(2) “c”(7), insert “Iowa Code section 256.211”.

These rules are intended to implement Iowa Code chapter 256.

ITEM 2. Rescind and reserve **283—Chapter 29.**

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 28
“Teach Iowa Scholar Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.218
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.218

Public Hearing

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

March 11, 2025
4 p.m.

Room B50
Grimes State Office Building
Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission proposes to rescind and adopt a new Chapter 28 pursuant to Executive Order 10. New Chapter 28 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the Teach Iowa Scholar Program. The proposed rulemaking establishes the eligibility criteria and priority criteria used in awarding funds under the program; describes the process of awarding funds and tracking obligations; and illustrates the role of the Commission, applicants, and employers. The rulemaking also provides definitions for use under the program.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

In general, the proposed rulemaking does not impose requirements that would add administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive awards and articulates the priority criteria for awards and general provisions of eligibility. Employers will need to verify completion of employment obligations under the program before an award is paid.

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

Eligible applicants, eligible schools and agencies, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the award.

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 rulemaking does not impose measurable costs beyond those imposed by law.

- **Qualitative description of impact:**

Employers are required to verify completion of the employment obligation. While this requirement is not specifically established in law, an alternative data source that could effectively replace the employer's timely verification of employment has yet to be found. The Commission has implemented similar requirements for employers in other programs and does not anticipate the administrative burden of the requirement to result in measurable cost. Ensuring the timely payment of an award is a critical part of the effective operation of the program, and this cannot be done without the assistance of employers.

3. **Costs to the State:**

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

The agency would incur minimal costs to implement and enforce the rule.

- **Anticipated effect on state revenues:**

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

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

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and award funds and to articulate the priority criteria and general provisions of eligibility.

The cost of inaction would be confusion in the process and criteria to be used in the application and awarding of funds under the program. In addition, the program could not be administered without employer verification of completed obligations of the eligible applicants.

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

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced. The administrative method proposed for this program is the most cost-efficient method utilized by the Commission in the administration of state financial aid programs.

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

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

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

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

Alternative methods were rejected because they would lead to additional burden on applicants, eligible institutions, and the Commission.

Small Business Impact

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

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

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

The proposed rulemaking is not expected to impact small businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28
TEACH IOWA SCHOLAR PROGRAM

283—28.1(256) Definitions.

“Eligible applicant” means an individual who meets the criteria in Iowa Code section 256.218(3), agrees to complete the obligation, completes applications on or before the date established by the commission, and does not meet a condition in 283—subrule 10.3(1). The obligation ends after five consecutive years. Progression towards completion of the obligation is verified annually. In addition, the eligible applicant will have graduated in the top 25 percent academically of students completing the teacher preparation program at the institution, as certified by the postsecondary institution offering the teacher preparation program from which the applicant graduates, and must be providing instruction in an eligible teaching field or in a combination of eligible teaching fields at an eligible school or agency and will be teaching on a full-time basis.

“Eligible school or agency” means a public school district, area education agency, charter school, and accredited nonpublic school located in Iowa and recognized and approved by the department of education.

“Eligible student loan” means the same as defined in Iowa Code section 256.218(4). Only the outstanding portion of a federal consolidation loan that was used to repay an eligible student loan qualifies as an eligible student loan.

“Eligible teaching field” means hard-to-staff subjects as identified by the director of the department of education.

“Preparation program” means the programs of practitioner preparation leading to initial licensure of teachers, administrators, and other professional school personnel.

“Teacher” means an individual who holds a practitioner’s license or a statement of professional recognition issued under Iowa Code chapter 272 and who is employed in a nonadministrative position by an eligible school or agency pursuant to a contract issued by a board of directors under Iowa Code section 279.13. “Teacher” also includes a preschool teacher who is licensed by the board of educational examiners under Iowa Code chapter 272 and is employed by an eligible school or agency.

283—28.2(256) Awarding of funds.

28.2(1) *Selection criteria.* All eligible applicants will be considered for an award.

28.2(2) *Extent of award and maximum award.* Eligible applicants may receive up to \$4,000 per year for a period of five years.

28.2(3) *Priority for awards.* New awards will be made in the order of the following priority categories if funding is insufficient to award all eligible applicants. An eligible applicant selected for an award under a priority category will continue to meet the provisions of that category to maintain eligibility.

a. Eligible applicants who are Iowa residents.

(1) If all eligible applicants in this category cannot be funded, awards will be made first based on the eligible applicant’s graduation date from the teacher preparation program, grouped by academic year, with the most recent academic year graduates given priority.

(2) If all eligible applicants who graduated within an academic year cannot be funded, awards will be further prioritized based on the annual ranking of eligible teaching fields by the department, with eligible applicants teaching in the highest ranking fields being served first. Eligible applicants who meet the same priority criteria in this category will be further prioritized by application date.

b. Eligible applicants who are not Iowa residents.

(1) If all eligible applicants in this category cannot be funded, awards will be made first based on the eligible applicant's graduation date from the teacher preparation program, grouped by academic year, with the most recent academic year graduates given priority.

(2) If all eligible applicants who graduated within an academic year cannot be funded, awards will be further prioritized based on the annual ranking of eligible teaching fields by the department, with eligible applicants teaching in the highest ranking fields being served first. Eligible applicants who meet the same priority criteria in this category will be further prioritized by application date.

28.2(4) *Awarding process.*

a. The commission will provide notice of the eligibility criteria and the application process annually.

b. Eligible applicants will specify if the award should be paid directly to the eligible applicant or to the holder of the eligible applicant's eligible student loan.

c. The commission will designate eligible applicants for awards and notify all applicants of their eligibility.

d. The commission will track eligible applicants selected to receive awards through completion of their obligation.

e. The commission will pay the award directly to the eligible applicant or to the holder of the eligible applicant's eligible student loan after the eligible school or agency verifies that a portion of the obligation has been completed.

283—28.3(256) Grandfather clause. The eligibility of eligible applicants who are selected to receive awards will not be impacted in subsequent years if the eligible teaching field under which they were selected to receive the award is no longer identified by the department.

These rules are intended to implement Iowa Code chapter 256.

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 30
“Iowa National Guard Student Loan Repayment Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.211
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.211

Public Hearing

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

March 11, 2025
4 p.m.

Room B50
Grimes State Office Building
Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission plans to rescind Chapter 30 pursuant to Executive Order 10. Iowa Code section 256.211 allows unencumbered funds under Iowa Code section 256.210 to be utilized for an Iowa National Guard Student Loan Repayment Program. No unencumbered funds under Iowa Code section 256.210 have been authorized for disbursement under the program, so rules for the program are unnecessary.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
Iowans will not bear any costs related to the rescission of Chapter 30.
 - **Classes of persons that will benefit from the proposed rulemaking:**
Iowans may benefit from the rescission of Chapter 30 since the rescission will eliminate information on a program that is not active and has not provided awards to Iowans.
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 rescission of Chapter 30 has no impact on costs.
 - **Qualitative description of impact:**
The rescission of Chapter 30 has no impact on costs.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**

The rescission of Chapter 30 has no impact on costs.

- **Anticipated effect on state revenues:**

The rescission of Chapter 30 is not anticipated to have an impact on state revenues.

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

The benefit of rescinding Chapter 30 is eliminating obsolete information since Iowans can neither apply for nor receive funds from the program.

The cost of inaction would be confusion and unnecessary inquiries about the program and the application process, neither of which is in operation.

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

Rescinding Chapter 30 is the most efficient approach under Executive Order 10.

6. Alternative methods considered by the agency:

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

No other methods were seriously considered since the method proposed is the most cost-efficient approach and eliminates potential confusion among Iowans seeking loan repayment funding.

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

Alternative methods were rejected because they would lead to informational burdens on students, families, eligible institutions, and the Commission.

Small Business Impact

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

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

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

The proposed rulemaking is not expected to impact small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **283—Chapter 30.**

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 7
“Contested Cases”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5 and 17A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A

Public Hearing

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

March 11, 2025
11:15 to 11:30 a.m.

1963 Bell Avenue
Des Moines, Iowa

Public Comment

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

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 7 and adopt a new chapter in lieu thereof. The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms and updates outdated language.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Persons requesting contested case proceedings will bear the costs of the proposed rulemaking.

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

Persons requesting contested case proceedings may benefit from the improved clarity of the chapter.

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

• **Quantitative description of impact:**

Persons requesting contested case proceedings may incur costs to draft the request or other documents associated with the proceedings. The amount of the costs will vary depending on the complexity of the issues and the compensation of staff or service providers who draft the documents. Other costs that may be incurred include expenses related to service and filing of documents, discovery procedures, and recording costs.

• **Qualitative description of impact:**

The proposed rulemaking will provide clarity about the Authority’s processes for contested cases.

3. **Costs to the State:**

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

The Authority incurs staff time to administer and oversee contested case proceedings.

- **Anticipated effect on state revenues:**

The proposed rulemaking has 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 proposed rulemaking does not impose any additional costs on persons requesting contested case proceedings compared to the existing Chapter 7.

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

The Authority has not identified any less costly methods or less intrusive methods that exist for addressing contested case proceedings.

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

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

The Authority did not consider any alternative methods.

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

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

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 rules do not have a substantial impact on small business. The rules do not establish compliance or reporting requirements. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
CONTESTED CASES

265—7.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the authority.

265—7.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Authority*” means the Iowa finance authority created in Iowa Code section 16.1A.

“Contested case” means a proceeding defined by Iowa Code section 17A.2 and includes any matter described as a no factual dispute contested case under Iowa Code section 17A.10A.

“Director” means the director of the authority or an authorized representative of the director.

“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 the same as defined in Iowa Code section 17A.2.

“Presiding officer” means the authority board or members of the authority 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 entire authority board did not preside.

265—7.3(17A) Time.

7.3(1) Time shall be computed as provided in Iowa Code section 4.1(34).

7.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

265—7.4(17A) Requests for contested case proceeding.

7.4(1) Requests for contested case proceedings shall be filed with the authority in writing within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the authority action in question. If no such time is specified by the authority, the request shall be filed within 12 months of the authority action in question.

7.4(2) The request for a contested case proceeding should state the name and address of the requester, identify the specific authority action that is disputed, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding, and include a short and plain statement of the issues of material fact in dispute.

265—7.5(17A) Notice of hearing.

7.5(1) Delivery of the notice of hearing to the person requesting a contested case constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. The methods specified in Iowa Code section 17A.12;
- b. First-class mail; or
- c. Publication as provided in the Iowa Rules of Civil Procedure.

7.5(2) The notice of hearing shall contain the information specified by Iowa Code section 17A.12(2) and the following information:

- a. Identification of all parties, including the name, address and telephone number of the person who will act as advocate for the authority or the state and of parties’ counsel where known;
- b. Reference to the procedural rules governing conduct of the contested case proceeding;
- c. Reference to the procedural rules governing informal settlement;
- d. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer; and
- e. Notification of the time period in which a party may request that the presiding officer be an administrative law judge pursuant to Iowa Code section 17A.11 and rule 265—7.6(17A).

265—7.6(17A) Presiding officer.

7.6(1) In each contested case in which Iowa Code chapter 17A requires an evidentiary hearing, the chairperson of the authority will determine whether the hearing will be held before the authority board, one or more members of the authority board, or an administrative law judge. Parties requesting that the presiding officer assigned to render a proposed decision be an administrative law judge must file a written request within 20 days after service of a notice of hearing that identifies or describes the presiding officer as the authority board or members of the authority board.

7.6(2) The director may deny a request made pursuant to subrule 7.6(1) only upon a finding that any of the following apply:

- a.* Conditions specified in Iowa Code section 17A.11(1) “a.”
- b.* Neither the authority nor any officer of the authority 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.
- c.* The request is not consistent with a specified statute.

7.6(3) The director shall 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 7.6(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

7.6(4) An administrative law judge assigned to act as presiding officer in any of the authority’s cases shall have sufficient technical expertise identified by the authority.

7.6(5) Except as otherwise provided by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the authority board. A party must seek any available intra-authority appeal to exhaust adequate administrative remedies.

7.6(6) Unless otherwise provided by law, members of the authority board, when reviewing a proposed decision upon intra-authority appeal, shall have the powers of and comply with the provisions of this chapter that apply to presiding officers.

265—7.7(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may agree to waive any provision of this chapter. However, the authority in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

265—7.8(17A) Telephone or video proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings or interactive video proceedings, including the hearing for the contested case proceeding, may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. The cost of the telephone hearing or an interactive video hearing may be assessed equally to each party.

265—7.9(17A) Disqualification.

7.9(1) A presiding officer or other person shall 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.

7.9(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 authority 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 shall be disclosed if required by Iowa Code section 17A.17 and subrules 7.9(3) and 7.23(9).

7.9(3) In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

7.9(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.9(1), the party shall 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, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

7.9(5) If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 265—7.25(17A) and seek a stay under rule 265—7.29(17A).

265—7.10(17A) Consolidation—severance.

7.10(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.

7.10(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

265—7.11(17A) Pleadings.

7.11(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer. A petitioner in a contested case proceeding has 20 days from delivery of the notice of hearing or subsequent order of the presiding officer to file a petition unless otherwise ordered.

7.11(2) A petition shall include the following:

- a. The persons or entities on whose behalf the petition is filed;
- b. The particular provisions of statutes and rules involved;
- c. The relief demanded and the facts and law relied upon for such relief; and
- d. The name, address and telephone number of the petitioner and the petitioner’s attorney, if any.

7.11(3) Answers are to be filed within 20 days of service of the petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate. An answer shall include the following:

- a.* The name, address and telephone number of the person filing the answer;
- b.* The name of the person or entities on whose behalf it is filed;
- c.* The name of any attorney representing the person or entity on whose behalf it is filed;
- d.* Specific admission, denial, or other answer to all material allegations of the pleading to which it responds;
- e.* Any facts deemed to show an affirmative defense;
- f.* Any additional defenses the pleader may claim;

Any allegation in the petition 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.

7.11(4) Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

265—7.12(17A) Service and filing of pleadings and other papers.

7.12(1) *Service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the authority, 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.

7.12(2) *Service method.* Service upon a party represented by an attorney shall 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.

7.12(3) *Filing timing.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding are to be filed with the authority at the address set forth in rule 265—1.3(16). All pleadings, motions, documents or other papers served upon a party pursuant to these rules shall be filed simultaneously with the authority.

7.12(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the authority at the address set forth in rule 265—1.3(16), 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.

7.12(5) *Proof of mailing.* Proof of mailing includes 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 (authority 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)

265—7.13(17A) Discovery.

7.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

7.13(2) Any motion 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. The presiding officer shall rule on motions in regard to discovery. Opposing parties shall respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 7.13(1). The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

7.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

265—7.14(17A) Subpoenas.

7.14(1) A party may be issued a subpoena by the authority upon written request. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. Requests for a subpoena shall include the name, address, and telephone number of the requesting party. 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.

7.14(2) 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 shall be set for argument promptly.

265—7.15(17A) Motions.

7.15(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

7.15(2) Any party may file a written response to a motion within ten days after the motion is served unless the time period is extended or shortened by rules of the authority or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

7.15(3) The presiding officer may schedule oral argument on any motion.

7.15(4) Motions pertaining to the hearing, except 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 authority or an order of the presiding officer.

7.15(5) Motions for summary judgment shall comply with and are disposed of pursuant to the Iowa Rules of Civil Procedure unless inconsistent with this rule or other laws governing contested cases. Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days from the date a copy of the motion was served unless otherwise ordered by the presiding officer. The time fixed for hearing or nonoral submission shall be at least 20 days after the filing of the motion unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 265—7.28(17A) and appeal pursuant to rule 265—7.27(17A).

265—7.16(17A) Prehearing conference.

7.16(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 shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled at least three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by or on behalf of the authority to all parties. For good cause, the presiding officer may permit variances from this rule.

7.16(2) Each party shall 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.

7.16(3) In addition to items specified by subrule 7.16(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.

7.16(4) Prehearing conferences shall be conducted by telephone or other electronic means unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a prehearing conference.

265—7.17(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

7.17(1) A written application for a continuance shall:

- a.* Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;
- b.* State the specific reasons for the request; and
- c.* Be signed by the requesting party or the party's representative.

An oral application for continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless waived by the presiding officer. Applications for continuance shall not be made or granted without notice to all parties except when notice is not feasible. The authority may waive notice of such requests for a particular case or an entire class of cases.

7.17(2) In determining whether to grant a continuance, the presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The likelihood of informal settlement;
- d.* The existence of an emergency;
- e.* Any objection;
- f.* Any applicable time requirements;
- g.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h.* The timeliness of the request; and
- i.* Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

265—7.18(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. A withdrawal is with prejudice unless otherwise provided.

265—7.19(17A) Intervention.

7.19(1) *Motion.* A motion for leave to intervene in a contested case proceeding shall 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 shall 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.

7.19(2) *When filed.* Motions for leave to intervene shall 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 shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. A statement of good cause for the failure to file in a timely manner shall be included in any later motion. Unless inequitable or unjust, an intervenor shall 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 may be denied.

7.19(3) *Grounds for intervention.* A motion for leave to intervene shall 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.

7.19(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 condition the intervenor's participation in the proceeding.

265—7.20(17A) Hearing procedures.

7.20(1) The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue other orders and rulings to ensure the orderly conduct of the proceedings.

7.20(2) All objections shall be timely made and stated on the record.

7.20(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

7.20(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, submit briefs, and engage in oral argument.

7.20(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

7.20(6) Witnesses may be sequestered during the hearing.

7.20(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer gives an opening statement briefly describing the nature of the proceedings;

b. The parties are afforded the opportunity to present opening statements;

c. Parties present their cases in the sequence determined by the presiding officer;

d. Each witness is to 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.

265—7.21(17A) Evidence.

7.21(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

7.21(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

7.21(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare for the additional issue.

7.21(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 shall be appropriately marked and be made part of the record.

7.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall 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 shall 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.

7.21(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 shall 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 shall be marked as part of an offer of proof and inserted in the record.

265—7.22(17A) Default.

7.22(1) A presiding officer may enter default in accordance with Iowa Code section 17A.12(3). 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.

7.22(2) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final authority 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 265—7.27(17A). 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.

7.22(3) 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.

7.22(4) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall 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.

7.22(5) "Good cause," for purposes of this rule, shall have the same meaning as "good cause" for setting aside a default judgment in the Iowa Rules of Civil Procedure.

7.22(6) 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 265—7.25(17A).

7.22(7) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed according to this chapter.

7.22(8) 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.

7.22(9) 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 265—7.29(17A).

265—7.23(17A) Ex parte communication.

7.23(1) Iowa Code section 17A.17 governs ex parte communications in authority contested cases. This does not prohibit persons jointly assigned tasks related to the contested case from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the agency 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 7.9(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.

7.23(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue while the case is pending.

7.23(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

7.23(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 shall be provided in compliance with rule 265—7.12(17A) and may be supplemented by telephone, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call or other electronic means including all parties or their representatives.

7.23(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

7.23(6) The 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 7.23(1).

7.23(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 shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 265—7.17(17A).

7.23(8) 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 shall be

submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, the procedures indicated in Iowa Code section 17A.17(4) apply.

7.23(9) Presiding officers shall disclose pre-assignment ex parte communications in accordance with Iowa Code section 17A.17(3). 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 be provided to the parties.

7.23(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 authority. Violation of ex parte communication prohibitions by authority personnel shall be reported to the director for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

265—7.24(17A) Recording costs. Upon request, the authority shall 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 shall be paid by the requesting party. Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of recording unless otherwise provided by law.

265—7.25(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the authority board may review an interlocutory order of the presiding officer. In determining whether to do so, the authority board shall 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 authority 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.

265—7.26(17A) Posthearing procedures and orders.

7.26(1) *Filing by parties of briefs and proposed findings.* The presiding officer may ask the parties to submit proposed findings and conclusions of law and a proposed order or briefs. Copies of the submission shall be served on all parties. The submission schedule, including waiver or briefs, shall be determined at the close of the hearing.

7.26(2) *Final decision or order.*

a. When a quorum of the authority board presides over the reception of evidence at the hearing, its decision is a final decision. The decision shall be in writing and shall include findings of fact and conclusions of law in conformance with Iowa Code chapter 17A.

b. In a contested case in which the hearing is held before an administrative law judge or a panel of the authority board members constituting less than a quorum of the authority board, the presiding officer or panel shall render a proposed decision. The proposed decision shall be in writing and shall include findings of fact and conclusions of law in conformance with Iowa Code chapter 17A. The proposed decision becomes the final decision of the authority without further proceedings unless there is an appeal to, or review on motion of, the authority within 30 days.

7.26(3) *Decisions and orders.*

a. *By whom prepared.* The presiding officer who presided at the reception of evidence shall prepare a proposed or final decision or order in each case. Findings of fact shall be prepared by the presiding officer at the reception of the evidence in a case unless the officer becomes unavailable. If the officer is unavailable, the findings of fact may be prepared by another person qualified to be a presiding officer who has read the record unless demeanor of witnesses is a substantial factor. If demeanor is a substantial factor and the presiding officer is unavailable, the portions of the hearing involving demeanor shall be heard again or the case shall be dismissed.

b. Content of decision or order. Proposed or final decisions or orders are rendered in accordance with Iowa Code section 17A.16(1). Proposed decisions or orders include rulings upon each proposed finding if a party submitted proposed findings of fact in accordance with subrule 7.26(1).

c. Delivery. A copy of the proposed decision or order shall be delivered to the parties either by personal service or by certified mail, return receipt requested.

265—7.27(17A) Appeals and review.

7.27(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the authority board within 30 days after issuance of the proposed decision.

7.27(2) *Review.* The authority 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.

7.27(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the authority. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. If a member of the authority board or the authority initiates review of a proposed decision, the director shall mail a notice of review to all parties. The notice of appeal or the notice of review shall 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.

7.27(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 authority board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

7.27(5) *Scheduling.* The authority shall issue a schedule for consideration of the appeal.

7.27(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 shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The authority may resolve the appeal on the briefs or provide an opportunity for oral argument. The authority may shorten or extend the briefing period as appropriate.

265—7.28(17A) Applications for rehearing.

7.28(1) Any party to a contested case proceeding may file an application for rehearing from a final order.

7.28(2) The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the authority decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.27(4), the applicant requests an opportunity to submit additional evidence.

7.28(3) The application shall be filed with the authority within 20 days after issuance of the final decision.

7.28(4) A copy of the application shall 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 authority shall serve copies on all parties.

7.28(5) Any application for a rehearing shall be deemed denied unless the authority grants the application within 20 days after its filing.

265—7.29(17A) Stays of authority actions.

7.29(1) *When available.*

a. Any party to a contested case proceeding may petition the authority for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the authority. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The authority may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the authority for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

7.29(2) *When granted.* In determining whether to grant a stay, the presiding officer or authority shall consider the factors listed in Iowa Code section 17A.19(5).

7.29(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the authority or any other party.

265—7.30(17A) 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 to 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 by the parties 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.

265—7.31(17A) Emergency adjudicative proceedings.

7.31(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, and welfare and, consistent with the Constitution and other provisions of law, the authority may issue a written order in compliance with Iowa Code section 17A.18A 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 authority by emergency adjudicative order. Before issuing an emergency adjudicative order, the authority shall consider factors, including but not limited to the following:

a. Whether there has been a sufficient factual investigation to ensure that the authority 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 authority is necessary to avoid the immediate danger.

7.31(2) *Issuance of order.*

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the authority's decision to take immediate action.

b. The written emergency adjudicative order shall 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 authority;
(3) Certified mail to the last address on file with the authority;
(4) First-class mail to the last address on file with the authority; 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 authority orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the authority shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

7.31(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the authority shall make reasonable immediate efforts to contact by telephone or electronic mail the persons who are required to comply with the order.

7.31(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the authority shall 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 shall include notification of the date on which the authority's proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further authority proceedings to a later date will be granted only in compelling circumstances upon application in writing.

265—7.32(17A,16) Informal procedure prior to hearing. Any person who desires to pursue informal settlement of any contested case may make a request for an informal settlement to the director. When the authority is a party, all informal settlements shall be made by the director. All informal settlements are subject to ratification by the board. A request for informal settlement should be received by the director not less than 15 days before the authority board meeting at which the request is to be considered. The director shall schedule consideration of the request at the next regular authority board meeting occurring more than 30 days after the request for an informal settlement is made. Not more than ten days after the authority meeting at which the request is scheduled for consideration, the director will notify the petitioner in writing of the authority's disposition of the request. If the authority determines that a conference is appropriate, the party will be notified when, where, and with whom such a conference is to be held. The terms of any settlement agreed to by the parties shall be embodied in a written stipulation. Upon receipt of the request, all formal contested case procedures are stayed, except in the case of emergency orders as provided in rule 265—7.31(17A). If informal settlement is unsuccessful, formal contested case proceedings may be instituted in accordance with rule 265—7.5(17A).

These rules are intended to implement Iowa Code chapter 17A.

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 15
“Purchasing”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5

State or federal law(s) implemented by the rulemaking: Iowa Code section 16.5(1)“f”

Public Hearing

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

March 11, 2025
11:30 to 11:45 a.m.

1963 Bell Avenue
Des Moines, Iowa

Public Comment

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

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 15 and adopt a new chapter in lieu thereof. The new chapter eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated language.

Analysis of Impact

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

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

Persons who participate in the Authority’s purchasing processes will bear the costs of the proposed rulemaking.

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

Persons who participate in the Authority’s purchasing processes may benefit from the improved clarity of the chapter.

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

- **Quantitative description of impact:**

Persons who participate in the Authority’s purchasing processes may incur costs to submit bids or proposals.

- **Qualitative description of impact:**

The proposed rulemaking will provide clarity about the Authority’s processes for purchasing.

3. **Costs to the State:**

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

The Authority incurs staff time to administer and oversee purchasing.

- **Anticipated effect on state revenues:**

The proposed rulemaking has 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 proposed rulemaking does not impose any additional costs on persons who participate in the Authority's purchasing processes compared to the existing Chapter 15.

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

The Authority has not identified any less costly methods or less intrusive methods that exist for addressing its purchasing processes.

6. Alternative methods considered by the agency:

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

The Authority did not consider any alternative methods.

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

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

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 rules do not have a substantial impact on small business. The rules do not establish compliance or reporting requirements. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
PURCHASING

265—15.1(16) Applicability of competitive bidding. Goods or services expected to cost more than \$50,000 in the aggregate will be obtained through a formal or informal competitive bidding process conducted by the authority or through the department of administrative services whenever such procurement is in the best interests of the authority as determined by the authority. Goods or services expected to cost \$50,000 or less in the aggregate may be obtained in any manner deemed appropriate by the authority.

Notwithstanding the foregoing, the authority may exempt any item from competitive bidding if the item is noncompetitive or is purchased in quantities too small to be effectively purchased through

competitive bidding; if there is an immediate or emergency need for the item; if the purchase of the item facilitates compliance with set-aside procurement provisions; or if the director of the authority determines, in the director's sole discretion, that the authority's best interests will be served by exemption from the bidding process.

265—15.2(16) Methods of obtaining bids or proposals used by the authority. Formal or informal bids or proposals may be obtained by one of the following methods.

15.2(1) *Request for bids.*

a. The authority may prepare a request for bids for providing the goods or services sought by the authority. The request may be shared on the state website for bid opportunities, shared on the authority's website, sent directly to vendors, or distributed in other means determined by the authority. The authority may use reverse auction methods to obtain goods and services.

b. The request for bids will include the due date and time of the bid opening, a description of the goods or services needed, and other information deemed necessary by the authority.

c. The authority will tabulate results as bids are opened.

d. The authority will make an award by the date identified in the request for bids. The price quoted by the vendors shall remain binding for the time period indicated in the request for bids. If an award is not made within the time frame indicated by the authority when requesting bids, all bids may be deemed rejected.

15.2(2) *Informal bids.*

a. The authority may obtain informal bids through use of a written bid form, in electronic format, or in other manners determined appropriate by the authority. The authority will describe the goods or services sought by the authority, the date by which bids must be submitted, the anticipated award date and other information deemed necessary by the authority. The authority may use reverse auction methods to obtain goods and services.

b. The authority will tabulate results as bids are opened.

c. If an award is not made within the time frame indicated by the authority when requesting bids, all bids may be deemed rejected.

15.2(3) *Request for proposals.* The authority may issue a request for proposals when cost is not the sole criterion for selection.

a. The authority will prepare a written request for proposals and submit the request to the department of administrative services for submission on the state website for bid opportunities. The authority may publicize a request through other means, including the authority's website or sending the request for proposals to selected vendors.

b. Requests for proposals will generally include the purpose of the request, the scope of work to be performed, submission requirements and due date, terms and conditions of an award, review criteria and the anticipated time frame for awarding a contract.

c. The authority will evaluate and rank proposals according to review criteria identified in the request for proposals. If an award is not made within the applicable time frame indicated by the authority when requesting proposals, all proposals may be deemed rejected.

265—15.3(16) Contract purchases. The authority may enter into contract purchase agreements for items, groups of items, or services. Contract purchase agreements are subject to the competitive bidding requirements previously outlined, where applicable.

265—15.4(16) Blanket purchase agreements. The authority may establish blanket purchase agreements. Blanket purchase agreements are subject to the competitive bidding requirements previously outlined, where applicable.

265—15.5(16) Bids and proposals to conform to specifications. All bids and proposals must conform to the specifications provided by the authority, including deadlines for submission of bids or proposals. Bids and proposals that do not conform to the specifications stated may be rejected. The

authority reserves the right to waive deficiencies in the bids or proposals if the authority's best interests would be served by the waiver.

265—15.6(16) Modification or withdrawal of bids. Bids or proposals may be modified or withdrawn prior to the time and date set for the bid or proposal opening. Modifications or withdrawals must be submitted to the authority in writing. A bid or proposal may be withdrawn after opening with the approval of the authority.

265—15.7(16) Financial security. The authority may require bid security, litigation security, and performance security on formal bids or proposals if specified in the request for bids or request for proposals.

265—15.8(16) Rejection of bids and proposals. The authority reserves the right to reject any or all bids or proposals. Bids and proposals may be rejected because of faulty specifications, abandonment of the project, insufficient funds, evidence of unfair or flawed bidding procedures, failure of a vendor to meet the authority's requirements or follow submission instructions, or for any other reason if the authority determines that its best interests will be served by rejecting any or all bids. New bids may be requested by the authority at any time.

265—15.9(16) Vendor appeals. Any vendor whose bid or proposal has been timely filed may appeal the decision by filing a written notice of appeal before the authority board within three business days of the date of the award. The notice of appeal shall state the grounds upon which the vendor challenges the authority's award. Following receipt of a notice of appeal, the authority board will notify the appealing vendor and the vendor who received the contract award of the procedures to be followed in the appeal. The authority board may appoint a designee to proceed with the appeal on its behalf.

These rules are intended to implement Iowa Code section 16.5(1) "*f.*"

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 41
“Shelter Assistance Fund”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5(1)“r” and 16.41
State or federal law(s) implemented by the rulemaking: Iowa Code section 16.41

Public Hearing

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

March 11, 2025

11:45 a.m. to 12 noon

1963 Bell Avenue

Des Moines, Iowa

Public Comment

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

Lisa Connell

Iowa Finance Authority

1963 Bell Avenue, Suite 200

Des Moines, Iowa 50315

Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 41 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Shelter Assistance Fund program (program) established pursuant to Iowa Code section 16.41. The program is intended to support the costs of operations of homeless and domestic violence shelters, essential services for the homeless, and evaluation and reporting of services for the homeless.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Entities that apply for and are approved for grants through the program will bear the costs of the rulemaking.

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

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

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:**

Entities interested in applying for grants may require staff time to complete an application. Recipients may similarly incur costs to comply with reporting and monitoring requirements. Some applicants may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary, depending on the compensation of staff or service providers involved.

- **Qualitative description of impact:**

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

3. Costs to the State:

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

Authority staff time is required to review and approve applications, administer grants, and communicate with program applicants and recipients.

• **Anticipated effect on state revenues:**

The rulemaking has no fiscal impact. The Authority is directed to administer the shelter assistance fund by Iowa Code section 16.41.

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

Only the entities that will potentially benefit from financial assistance bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

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

The Authority has not identified less costly methods or less intrusive methods of administering the program.

6. Alternative methods considered by the agency:

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

The Authority did not consider any alternative methods.

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

The Authority did not consider any alternative methods.

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 rules do not have a substantial impact on small business. The application, contracting, and monitoring requirements related to the program are no more than necessary to administer the statutory requirements of the program. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 41 and adopt the following **new** chapter in lieu thereof:

CHAPTER 41
SHELTER ASSISTANCE FUND

265—41.1(16) Purpose. The shelter assistance fund (SAF) is created pursuant to and for the purposes stated under Iowa Code section 16.41.

265—41.2(16) Definitions.

“Applicant” means an eligible provider of homeless services that is applying for SAF funds.

“Authority” means the Iowa finance authority.

“Domestic violence shelter” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“DVIMS” means the Domestic Violence Information Management System, which is Iowa’s designated database for domestic violence shelters.

“ESG” means the Emergency Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“HMIS” means the Homeless Management Information System as defined in 24 CFR Part 91.

“Homeless” means the same as set forth in 24 CFR Part 91.

“Homeless shelter” or *“shelter”* means a facility properly zoned and lawfully operating in compliance with all state, county and municipal laws and regulations, including possessing all permits, licenses, certifications and other authorizations required for the facility’s location, which provides temporary shelter with overnight sleeping accommodations for homeless persons and which does not require occupants to sign leases or occupancy agreements.

“HUD” means the U.S. Department of Housing and Urban Development.

“Participant” means any person or family who is homeless or at risk of becoming homeless and is provided assistance from a recipient utilizing SAF funds.

“Private nonprofit organization” means an organization as set forth in 42 U.S.C. Section 11371, which has registered with the state of Iowa as a nonprofit corporation.

“Recipient” means any organization to which the authority distributes SAF funds.

265—41.3(16) Eligible applicants. City governments, county governments, instrumentalities of government, and nonprofit organizations that operate a homeless shelter are eligible applicants under the SAF program.

265—41.4(16) Eligible activities. Eligible activities may include the following, where necessary to assist participants:

41.4(1) Operating expenses for homeless and domestic violence shelters necessary for the operation of the shelter, including staff salaries, maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies. Where or when no appropriate shelter is available for a homeless family or individual, eligible costs may include a hotel or motel voucher for that family or individual. Costs of third-party agencies in providing food to one or more shelters or directly to participants may also be included as eligible costs.

41.4(2) Essential services for individuals and families in homeless and domestic violence shelters, including case management, coordinated entry or centralized intake, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, mental health services, substance abuse treatment services, and transportation necessary to provide services.

41.4(3) Evaluation and reporting of services for the homeless, including the implementation of the HMIS.

265—41.5(16) Application procedures. The authority shall issue requests for applications periodically, specifying requirements, priorities, period of funding, and maximum and minimum award amounts, subject to available funding. Requests for applications may be issued jointly with the ESG program. Only applications submitted as prescribed by the authority will be considered.

265—41.6(16) Application review process.

41.6(1) Applications will be reviewed by the authority for funding approval or denial based on priorities established during each competition round. Review criteria include but are not limited to the following:

- a. Project design,
- b. Applicant experience and capacity,
- c. Community partnerships and need,
- d. Past performance, and
- e. Budget and grant management.

41.6(2) If an application contains an activity determined to be ineligible, at the authority's discretion, the ineligible activity may be deleted from the application or the application may be disqualified in its entirety.

41.6(3) Before making final funding recommendations, the authority may review applications with other state agencies or any other party deemed appropriate in the authority's sole discretion.

41.6(4) Based on the review process and subject to available funding, the authority may revise the applicant's overall funding request by activity or funding level and recommend a final funding figure to the authority's board of directors for approval.

265—41.7(16) Matching contributions. The authority reserves the right to designate a portion or all of SAF funds to be used toward the matching contributions requirement imposed by HUD for ESG funds received by the state of Iowa. SAF funds designated as ESG matching contributions may not be used to meet matching requirements of other grant moneys received by recipients. Recipients will be informed if SAF funds have been used toward the ESG matching requirement and will be responsible for ensuring compliance with the matching requirements of other grant programs.

265—41.8(16) Funding awards.

41.8(1) *Authorization.* The authority's board of directors approves funding awards during each application cycle.

41.8(2) *Right to negotiate.* The authority reserves the right to negotiate with the recipient the amount of the funding award, the scale or scope of the recipient's project, and alternative methods for completing the project.

41.8(3) *Special purpose awards.* The authority may, at its discretion, make funding awards for evaluation, reporting, or implementation of services for the homeless, including but not limited to the HMIS or coordinated entry, apart from the application procedures and application review process set forth in rules 265—41.5(16) and 265—41.6(16).

265—41.9(16) Requirements placed on recipients.

41.9(1) *Participation by homeless individuals and families.* To the extent possible, recipients are required to involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with SAF funds and providing services assisted with SAF funds.

41.9(2) *Termination of assistance and grievance procedure.* Recipients shall establish and implement a formal process to terminate assistance to participants who violate SAF program requirements. This process shall include a hearing that provides participants a full opportunity to address issues of noncompliance.

41.9(3) *Data reporting system.* Recipients shall participate in the HUD-approved HMIS adopted by the authority unless the recipient qualifies as a domestic violence shelter, in which case the recipient shall use the DVIMS.

41.9(4) *Ensuring confidentiality.* Recipients shall develop and implement procedures to guarantee the confidentiality of records pertaining to any participant, including any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any domestic violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

41.9(5) *Requirements for religious organizations.* Recipients shall not engage in religious proselytizing or counseling using SAF funds, require attendance at religious services as a requirement or condition to receive assistance with SAF funds, nor limit services or give preference to persons seeking assistance with SAF funds on the basis of religion.

41.9(6) *Prohibition against involuntary family separation.* If a shelter provides services to families with children under the age of 18, the age of a child under the age of 18 shall not be used as a basis for denying any family's admission to shelter.

41.9(7) *Lead-based paint.* Recipients shall follow the federal rules for lead-based paint, including the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR Part 35, Subparts A, B, H, J, K, M, and R, which apply to all shelters occupied by participants.

41.9(8) *Habitability standards.* Recipients shall follow the federal rules for habitability, ensuring that shelters receiving SAF funds adhere to minimum habitability standards for being safe, sanitary, and adequately maintained, according to the regulations at CFR Part 576.403, and comply with all applicable local building codes.

41.9(9) *Other requirements.* The authority may impose additional requirements on recipients, which will be described in the request for applications, the grant contract, or other guidance materials issued from time to time.

265—41.10(16) Compliance with applicable federal and state laws and regulations. Recipients shall comply with all applicable federal, state, and local laws with respect to activities performed under this SAF program, including the Iowa Civil Rights Act as set forth in Iowa Code chapter 216. Recipients shall also comply with the following additional requirements.

41.10(1) *Review of financial statements.* Recipients shall obtain from an independent certified public accountant an annual audit report or an annual independent review of recipients' financial statements.

41.10(2) *Conflict of interest.* No person, including any employee, agent, consultant, officer, or elected or appointed official of a recipient, exercising any functions or responsibilities with respect to activities assisted under the SAF program or in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the SAF program shall:

- a. Obtain a financial interest or benefit from an assisted activity;
- b. Have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or
- c. Have a financial interest in the proceeds derived from an assisted activity, either for the person or for those with whom the person has immediate family or business ties.

This subrule shall apply during a person's tenure and for a one-year period thereafter.

265—41.11(16) Administration.

41.11(1) *Contracts.* Upon selection of an application for funding, the authority will initiate a contract. These rules and applicable federal and state laws and regulations will become part of the contract. Certain activities may necessitate that permits or clearances be obtained from other state agencies before the start of the project. Funding awards may be conditioned upon the timely

completion of these requirements or any other conditions stipulated in the contract at the authority's sole discretion.

41.11(2) *Recordkeeping and retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the funded project shall be retained by the recipient and made available to the authority upon request. Proper record retention shall be in accordance with the following:

a. Retention of records for any assisted activity for five years after the end of the grant period and, if applicable, until audit and compliance monitoring procedures are completed and accepted by the authority.

b. Access to all books, accounts, documents, records, and other property belonging to or in use by a recipient pertaining to the receipt of assistance under these rules by the office of auditor of state, the authority or the authority's designee.

41.11(3) *Reporting requirements.* Recipients shall submit reports to the authority as prescribed in the contract. Reports include:

a. HMIS data reports. All recipients are required to submit regular reports on participants served using the current HMIS reporting process as prescribed by the authority unless a recipient qualifies as a domestic violence shelter, in which case the recipient shall submit reports using the DVIMS.

b. Requests for funds. Recipients shall submit requests for funds during the contract period at intervals and using forms as prescribed by the authority. The authority may perform any review or field inspections it deems necessary to ensure SAF program compliance, including review of recipient records and reports. When problems of compliance are noted, the authority may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 41.11(4).

41.11(4) *Remedies for noncompliance.* Should the authority find that a recipient is not in compliance with the requirements under this SAF program, the authority may employ any remedies it deems appropriate, including but not limited to the following:

a. Issue a warning letter stating that continued failure to comply with SAF program requirements within a stated period of time will result in a more serious action.

b. Condition a future award on correcting compliance issues.

c. Direct the recipient to stop incurring costs with grant funds.

d. Require that some or all of the awarded funds be remitted to the authority.

e. Reduce the level of funds the recipient would otherwise be entitled to receive.

f. Elect not to provide future award funds to the recipient until appropriate actions are taken to ensure compliance.

g. Prohibit a future award of funds.

These rules are intended to implement Iowa Code section 16.41.

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 42
“Emergency Solutions Grant Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5(1)“r” and 16.5(1)“m”

State or federal law(s) implemented by the rulemaking: Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 11371 through 11378.

Public Hearing

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

March 11, 2025

12 noon to 12:15 p.m.

1963 Bell Avenue

Des Moines, Iowa

Public Comment

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

Lisa Connell

Iowa Finance Authority

1963 Bell Avenue, Suite 200

Des Moines, Iowa 50315

Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 42 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Emergency Solutions Grant Program (program). The program is intended to assist homeless individuals and families to regain stability in permanent housing by supporting the costs of operations of homeless and domestic violence shelters, essential services for the homeless, and evaluation and reporting of services for the homeless.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Entities that apply for and are approved for grants through the program will bear the costs of the rulemaking.

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

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

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:**

Entities interested in applying for grants may require staff time to complete an application. Recipients may similarly incur costs to comply with reporting and monitoring requirements. Some

applicants may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary, depending on the compensation of staff or service providers involved.

- **Qualitative description of impact:**

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

3. **Costs to the State:**

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

Authority staff time is required to review and approve applications, administer grants, and communicate with program applicants and recipients.

- **Anticipated effect on state revenues:**

This rulemaking has no fiscal impact. The Authority is the recipient and administrator of program funds allocated to the state of Iowa by the U.S. Department of Housing and Urban Development.

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

Only the entities that will potentially benefit from financial assistance bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

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

The Authority has not identified less costly methods or less intrusive methods of administering the program.

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

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

The Authority did not consider any alternative methods.

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

The Authority did not consider any alternative methods.

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 rules do not have a substantial impact on small business. The application, contracting, and monitoring requirements related to the program are no more than necessary to administer the statutory requirements of the program. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42
EMERGENCY SOLUTIONS GRANT PROGRAM

265—42.1(16) Purpose. The Emergency Solutions Grant Program (ESG program) is a federal program of the U.S. Department of Housing and Urban Development (HUD) as set forth in Title 42 of the U.S. Code (42 U.S.C. Sections 11371-11378) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

265—42.2(16) Definitions.

“Applicant” means an eligible provider of eligible homeless services that is applying for funds through the ESG program.

“Authority” means the Iowa finance authority.

“Domestic violence shelter” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“DVIMS” means the Domestic Violence Information Management System, which is Iowa’s designated database for domestic violence shelters.

“HMIS” means the Homeless Management Information System as defined in 24 CFR Part 576.

“Homeless” means the same as set forth in 24 CFR Part 576.

“Private nonprofit organization” means an organization as set forth in 42 U.S.C Section 11371, which has registered with the state of Iowa as a nonprofit corporation.

“SAF” means the shelter assistance fund as set forth in Iowa Code section 16.41.

“Subrecipient” means any private nonprofit organization or city or county government to which the authority distributes ESG program funds.

265—42.3(16) Eligible applicants. City governments, county governments, and private nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider would otherwise qualify as an eligible applicant under the ESG program.

265—42.4(16) Eligible activities. Eligible activities may include only the following:

42.4(1) Street outreach. The provision of essential services necessary to reach out to unsheltered homeless people; to connect them with shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access shelter, housing, or an appropriate health facility.

42.4(2) Shelter. The provision of essential services to homeless families and individuals in shelters, the renovation of buildings to be used as emergency shelters for homeless families and individuals, and the operation of emergency shelters.

42.4(3) Prevention of homelessness. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to prevent an individual or family from experiencing homelessness.

42.4(4) Rapid rehousing. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to help an individual or family experiencing homelessness to move as quickly as possible into permanent housing and achieve stability in that housing.

42.4(5) Administrative costs. A subrecipient may use a portion of a grant received for administrative purposes as determined by the authority.

42.4(6) HMIS projects. The authority may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total ESG program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. The authority may in its discretion award such a

grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) through 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or the DVIMS.

265—42.5(16) Ineligible activities. Any activity that is not authorized under the provisions of the Stewart B. McKinney-Vento Homeless Assistance Act of 1987 as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), and implemented by 24 CFR Part 576, is ineligible to be carried out with ESG program funds.

265—42.6(16) Application procedures. The authority will issue requests for applications periodically, specifying requirements, priorities, period of funding, and maximum and minimum award amounts, subject to available funds. Requests for applications may be issued jointly with the SAF program. Only applications submitted as prescribed by the authority will be considered.

265—42.7(16) Application review process. Applications will be reviewed based on priorities established during each funding round, in accordance with the state of Iowa consolidated plan for housing and community development. Review criteria include but are not limited to applicant's project design, applicant experience and capacity, community partnerships and need, past performance, budget and grant management, project accessibility, project partnerships, the number of persons or households served, and how well the project leverages other resources.

42.7(1) If an application contains an activity determined to be ineligible, at the authority's discretion, the ineligible activity may be deleted from the application, the applicant may be referred to another funding source or the application may be disqualified.

42.7(2) Authority staff may review applications with other state agencies or any other party deemed appropriate in the authority's sole discretion.

42.7(3) Based on the review process and subject to available funding, the authority may revise the applicant's overall funding request by activity or funding level and recommend a final funding figure to the authority's board of directors for approval.

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must provide matching contributions according to the requirements for each round of funding. In calculating the amount of matching funds, the following may be included: cash contributions expended for allowable costs of the subrecipient for the ESG program or noncash contributions, including the value of any real property, equipment, goods, or services contributed to the subrecipient's ESG program-supported project, provided that, if the subrecipient had to pay for them with grant funds, the costs would have been allowable. The authority may allow an exemption of matching funds up to a maximum of \$100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. Subrecipients seeking this exemption from matching requirements must document their need for the exemption and receive prior approval from the authority before the exemption becomes effective.

265—42.9(16) Funding awards.

42.9(1) *Awards on behalf of multiple applicants.* A city or county government or private nonprofit organization may be designated, at the discretion of the authority, to administer a contract for multiple applicants within a prescribed geographic area.

42.9(2) *Right to negotiate.* The authority reserves the right to negotiate with the subrecipient the amount of the funding award, the scale or scope of the subrecipient's project, and alternative methods for completing the project.

42.9(3) *Special purpose awards.* The authority may, at its discretion, award any remaining funds as it sees fit within the ESG program regulations.

265—42.10(16) Compliance with applicable federal and state laws and regulations. Subrecipients shall comply with the following:

1. Iowa Code governing activities performed under this program;
2. Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations;
3. HEARTH Act; and
4. Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR Part 200.

265—42.11(16) Administration.

42.11(1) Contracts. Upon selection of an application for funding, the authority will initiate a contract. These rules and applicable federal and state laws and regulations will become part of the contract. Certain activities may necessitate that permits or clearances be obtained from other state or federal agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements or any other conditions stipulated in the contract at the authority's sole discretion.

42.11(2) Recordkeeping and retention. Financial records, supporting documents, statistical records, and all other records pertinent to the funded project shall be retained by the subrecipient and made available to the authority upon request. Private nonprofit subrecipients covered through an ESG program contract from a city or county government or another nonprofit organization are responsible for ensuring that pertinent records of their ESG program funds be made available to the administering city or county government or other nonprofit organization and to the authority upon request. Proper record retention must be in accordance with the following:

- a. Retention of records for any assisted activity for five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by the authority.
- b. Access to all books, accounts, documents, records, and other property belonging to or in use by a subrecipient pertaining to the receipt of assistance under these rules by representatives of the Secretary of HUD, the Inspector General, the General Accounting Office, the Office of Auditor of State, the authority or the authority's designee.

42.11(3) Reporting requirements. Subrecipients shall submit reports to the authority as prescribed in the contract. Reports include:

- a. HMIS data reports. All subrecipients are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by the authority unless a subrecipient qualifies as a domestic violence shelter, in which case the subrecipient must submit reports using the DVIMS.
- b. Requests for funds. Subrecipients must submit requests for funds during the contract period at intervals and using forms as prescribed by the authority. The authority may perform any review or field inspections it deems necessary to ensure program compliance, including review of subrecipient records and reports. When problems of compliance are noted, the authority may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 42.11(4).

42.11(4) Remedies for noncompliance. Should the authority find that a subrecipient is not in compliance with the requirements under this program, the authority may employ any remedies it deems appropriate, including but not limited to the following:

- a. Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.
- b. Condition a future award on correcting compliance issues.
- c. Direct the subrecipient to stop incurring costs with grant funds.
- d. Require that some or all of the awarded funds be remitted to the authority.
- e. Reduce the level of funds the subrecipient would otherwise be entitled to receive.
- f. Elect not to provide future award funds to the subrecipient until appropriate actions are taken to ensure compliance.

These rules are intended to implement Iowa Code section 16.5(1) “*m*” and 42 U.S.C. Sections 11371 through 11378.

Regulatory Analysis

Notice of Intended Action to be published: 875—Chapter 3
“Citations”

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

State or federal law(s) implemented by the rulemaking: 29 CFR 1903.15 as amended by 90 Fed. Reg. 1854 (January 10, 2025)

Public Hearing

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

March 11, 2025
9 to 9:15 a.m.

Lake Conference Room
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 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 proposed rulemaking adopts mandatory, annual cost-of-living adjustments in order to align Iowa’s penalties for occupational safety and health citations with the corresponding federal penalties.

Analysis of Impact

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

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

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

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

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

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

• **Quantitative description of impact:**

This rulemaking will cause about a 2.6 percent increase (1.02598 multiplier) in OSHA penalties.

• **Qualitative description of impact:**

The Department discerns no qualitative impact.

3. **Costs to the State:**

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

There are no increased implementation or enforcement costs.

- **Anticipated effect on state revenues:**

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

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

The proposed rulemaking is a benefit because it fulfills the requirement of Iowa OSHA to be as effective as federal OSHA. Inaction could cost the State the 50 percent in federal funding of its work safety program and lead to federal OSHA asserting jurisdiction over employers now subject to Iowa OSHA.

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

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

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered.

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

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

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after June 1, ~~2024~~ 2025, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$11,190~~ \$11,823 and shall not exceed ~~\$161,323~~ \$165,514.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$161,323~~ \$165,514.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$16,131~~ \$16,550.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$16,131~~ \$16,550.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$16,131~~ \$16,550 per day.

f. Posting, reporting, or recordkeeping violation. The penalty for each posting, reporting, or recordkeeping violation under Iowa Code section 88.14(9) shall not exceed ~~\$16,131~~ \$16,550.

Regulatory Analysis

Notice of Intended Action to be published: 701—Chapters 900, 901, and 902
“Inheritance Tax; Iowa Estate Tax; Generation Skipping Transfer Tax”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 450.3, 450A.12, 450B.7, and 451.12

State or federal law(s) implemented by the rulemaking: Iowa Code sections 450.98 and 450B.8 as enacted by 2021 Acts, Senate File 619, sections 12 and 13, and 2014 Iowa Acts, House File 2435, section 25

Public Hearing

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

March 12, 2025
2 to 3 p.m.

Via videoconference
meet.google.com/scy-rkwg-fup

Public Comment

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

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Purpose and Summary

The purpose of the proposed rulemaking is to rescind and readopt Chapter 900 and rescind and reserve Chapters 901 and 902. These chapters focused on the administration and application of the State’s inheritance tax, estate tax, and generation-skipping transfer tax. The Department proposes to rescind Chapters 901 and 902 because the underlying statutes regarding the State’s estate and generation-skipping transfer taxes have been repealed. Further, the State’s inheritance tax no longer applies to deaths occurring on or after January 1, 2025 (2021 Iowa Acts, Senate File 619, sections 12 and 13), so keeping Chapter 900 in its entirety could lead to confusion. Therefore, the Department proposes to readopt Chapter 900 with a reduction of the number of rules to one, which will provide guidance and direction to the public on the application of these taxes.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

The proposed rulemaking does not create costs for any classes of person beyond costs associated with the underlying statutes.

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

The public will benefit from the proposed rulemaking as it will reduce confusion and provide guidance.

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 economic impact associated with the proposed rulemaking beyond what is contained in statute.

- **Qualitative description of impact:**

The proposed rulemaking will reduce uncertainty about when or whether the underlying statutes and any administrative rules are applicable. Without the proposed rulemaking, confusion could occur.

3. Costs to the State:

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

There are no costs to the agency to implement the proposed rulemaking beyond those that would otherwise be required to administer the underlying statutes. Given the repeal of the underlying statutes, costs will be reduced as administration lessens.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues of the proposed rulemaking beyond the effect caused by the repeal of the underlying statutes.

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

The cost of inaction would be failing to update these chapters to rescind rules where the underlying statutes have been repealed. The benefit of the proposed rulemaking is to reduce confusion about the applicability of the associated tax types and provide guidance to the public.

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

The proposed rulemaking is not costly or intrusive. Given the repeal of the underlying statutes about these tax types, the Department considered the option of not having any rules; however, it determined providing useful guidance will be of assistance to the public.

6. Alternative methods considered by the agency:

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

The Department considered the possibility of fully rescinding and reserving Chapters 900 through 902 but determined that the public would benefit from guidance on the applicability of the underlying tax types.

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

The absence of any rules would lead to confusion about whether the underlying tax types could apply depending on when a decedent died. The proposed rulemaking provides guidance on this.

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, does not make any special distinctions for small businesses, and does not impose any requirements on businesses beyond that of the underlying statutes.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 900 and adopt the following **new** chapter in lieu thereof:

TITLE X
INHERITANCE TAX
CHAPTER 900
INHERITANCE TAX

701—900.1(450,450B) Administration.

900.1(1) *State inheritance tax.* For deaths occurring on or after January 1, 2025, no state inheritance tax is imposed. For deaths occurring before January 1, 2025, the administrative rules in effect for the year of the death of the decedent contain more information.

900.1(2) *Estate tax.* For deaths occurring on or after January 1, 2005, no estate tax is imposed. For deaths occurring before January 1, 2005, the administrative rules in effect for the year of the death of the decedent contain more information.

900.1(3) *Generation-skipping transfer tax.* For deaths occurring on or after January 1, 2005, no generation-skipping transfer tax is imposed. For deaths occurring before January 1, 2005, the administrative rules in effect for the year of the death of the decedent contain more information.

900.1(4) *Other applicable federal or state law.* Nothing in this chapter shall be construed to affect the provisions of any other federal or state law applicable to a decedent or a decedent's estate.

This rule is intended to implement Iowa Code sections 450.98 and 450B.8 as enacted by 2021 Iowa Acts, Senate File 619, sections 12 and 13, and 2014 Iowa Acts, House File 2435, section 25.

ITEM 2. Rescind and reserve **701—Chapter 901.**

ITEM 3. Rescind and reserve **701—Chapter 902.**

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 601
“Application for License”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.182

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A and 321; sections 321.13, 321.177, 321.182, 321.184, 321.186, 321.189, 321.196, 321.197, and 321C.1; Article V, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note) as amended by the REAL ID Modernization Act, H.R. 133, Division U, Title X; and 6 CFR Part 37

Public Hearing

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

March 13, 2025
1 to 1:30 p.m.

[Microsoft Teams Link](#)
Or dial: 515.817.6093
Conference ID: 639 996 349

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:

Kasey Lee
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: kasey.lee@iowadot.us

Purpose and Summary

The intended benefit of this proposed chapter is to comply with Iowa Code section 321.182 and the federal REAL ID Act, which require the Department to adopt rules regarding the application for a driver’s license and to administer REAL ID driver’s licenses in compliance with federal regulations.

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.

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

Persons seeking to obtain a driver’s license will benefit from these rules by knowing the application process and documentation required to be submitted with the application.

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.

• **Qualitative description of impact:**

The result of reorganizing, streamlining, and reducing redundancy in the chapter will create a positive impact by producing a more user-friendly version of information that applicants rely on for understanding how to obtain a driver's 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 statute.

• **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 a driver's license.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain a driver's license.

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 adopt rules for the application for driver's licenses and to administer REAL ID driver's licenses in compliance with federal regulations.

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

Not applicable.

Small Business Impact

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

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

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

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

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

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

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

There is no small business impact.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 601 and adopt the following **new** chapter in lieu thereof:

CHAPTER 601
APPLICATION FOR LICENSE

761—601.1(321) Information.

601.1(1) General. In addition to Iowa Code sections 321.182 and 321.196, this chapter provides information regarding how an applicant can qualify to apply for a driver's license. Additional information regarding applications for a commercial driver's license can be found in 761—Chapter 607.

601.1(2) Definition.

"License" means "driver's license" as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

601.1(3) Documents and location. Applications, forms and information about applying for a driver's license are available at any driver's license service center. Assistance is also available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, IA 50306-9204; by telephone at 515.239.1837; by email at driver.services@iowadot.us; or on the department's website at www.iowadot.gov/mvd/driverslicense.

This rule is intended to implement Iowa Code section 321.182.

761—601.2(321,321C) Application for license. An application for a driver's license is to include the following:

601.2(1) Name. The applicant's full legal name is to be given on the application. Full legal name means an individual's first name(s), middle name(s) and last name(s), without use of initials or nicknames. Civilian and military titles, initials and nicknames are not to be used on the applicant's license or in the applicant's record. This does not apply where a portion of an individual's legal name, whether first, middle or last, consists of a single character, whether followed by a period or not.

601.2(2) Out-of-state verification. Upon application for a driver's license, the department is to ascertain whether the applicant has ever held, or is the holder of, a driver's license issued by any other state.

a. The department will not issue a driver's license to the applicant if:

(1) The applicant has held a driver's license issued by any other state, but the driver's license has been suspended by reason, in whole or part, of a violation and if such suspension period has not terminated.

(2) The applicant has held a driver's license issued by any other state, but the driver's license has been revoked by reason, in whole or part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, the applicant may make application for a new license if permitted by law. The department may refuse to issue a license to any such applicant if, after investigation, the department determines that it will not be safe to grant such applicant the privilege of driving a motor vehicle on the highways.

(3) The applicant is the holder of a driver's license issued by another state and currently in force unless the applicant surrenders such license.

b. If the applicant is subject to subparagraph 601.2(2)"a"(2) or has committed an offense or acted in a manner in another state that in Iowa would be grounds for revocation and it has been more than one year from the date the license or driving privilege was revoked, the department may issue the applicant a driver's license only upon such terms and conditions and subject to such restrictions or limitations as if the violation had been committed and the revocation imposed in Iowa. The department will delay licensing or restrict licensing for such period of time that the applicant would be ineligible for a driving privilege or subject to a restricted driving privilege if the violation had been committed and the revocation imposed in Iowa.

(1) The department may grant a driving privilege to an applicant who meets all of the following:

1. The applicant has satisfied the same requirements as if the violation had been committed and the revocation imposed in Iowa.

2. The applicant is otherwise physically and mentally capable of safely operating a motor vehicle.

(2) The department will not assess a civil penalty to the applicant as a condition of licensing under this subrule.

(3) Pursuant to Iowa Code section 321.13, the department may make further investigation or request further information necessary to determine whether it is safe to grant the applicant a driving privilege.

c. The department may verify the applicant's driving record from another state of record, including electronically, to assist the department in determining whether it is safe to grant the applicant a license.

601.2(3) *Disabilities.* The applicant is to indicate and explain any mental or physical disabilities that might affect the applicant's ability to operate a motor vehicle safely. The department may make further inquiries of the applicant or request further information necessary to determine whether it is safe to grant the applicant a driving privilege, including but not limited to requesting an examination authorized under Iowa Code section 321.186.

601.2(4) *Physical description.* The applicant shall provide the applicant's sex designation, height to the nearest inch, weight to the nearest pound and eye color.

601.2(5) *Address.* The applicant shall provide the applicant's current residential address and current mailing address if different from the applicant's current residential address. A mailing address for which a forwarding order with the United States Postal Service is in place is not acceptable. Notwithstanding anything in subrule 601.2(5), an applicant who is a participant in the "safe at home" address confidentiality program administered by the Iowa secretary of state may submit a designated address issued to the applicant by the Iowa secretary of state as the applicant's residential and mailing address.

601.2(6) *Signature.*

a. The applicant's signature shall be without qualification and shall contain only the applicant's usual signature without any other titles, characters or symbols.

b. The applicant's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the applicant's application are true and correct.

c. The applicant's signature further certifies that the fee collected and the change returned, if any, is correct and acknowledges that the applicant is aware of the obligation to notify the department of a change in mailing address within 30 days of the change.

d. The applicant's signature will be captured electronically.

601.2(7) *Surrender of license and nonoperator's identification card.* An applicant for a driver's license shall surrender all other driver's licenses and nonoperator's identification cards. This includes those issued by a state other than Iowa or a foreign jurisdiction unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a driver's license electronically pursuant to 761—subrule 605.25(7) shall destroy the previous driver's license upon receipt of the renewed driver's license.

This rule is intended to implement Iowa Code sections 321.13, 321.177, 321.182, 321.186, 321.196 and 321C.1 and 6 CFR Part 37.

761—601.3(321) Emergency contact information. Pursuant to Iowa Code section 321.197, a person may voluntarily provide the department with emergency contact information.

601.3(1) *Form and submission.*

a. Emergency contact information may be provided to the department through any of the following methods:

(1) By submitting Form 430305 to the department's address or website listed in subrule 601.1(3) or by email at emergencyinfo.contact@iowadot.us.

(2) In person at a driver's license service center.

(3) In person at a county treasurer's office that issues driver's licenses under Iowa Code chapter 321M.

b. Submission of emergency contact information is not a condition of issuing, renewing or replacing a driver's license.

601.3(2) Modifications.

a. A person may request changes to the person's emergency contact information by entering those changes on the department's website or by submitting Form 430305 to the department using any of the methods provided in paragraph 601.3(1) "a."

b. A person may request to be removed as an emergency contact by submitting Form 430306 to the department at the address or website listed in subrule 601.1(3) or by email at emergencyinfo.contact@iowadot.us.

c. A person who was removed as an emergency contact under paragraph 601.3(2) "b" will not again be listed as the person's emergency contact unless the person submits Form 430306 to the department at the address or website listed in subrule 601.1(3) or by email at emergencyinfo.contact@iowadot.us.

This rule is intended to implement Iowa Code section 321.197.

761—601.4(17A,321) Proofs submitted with application. An applicant for a new Iowa driver's license or nonoperator's identification card, including a person who currently holds a license or card issued by another state or foreign jurisdiction, shall submit proof of identity, date of birth, social security number, Iowa residency and current residential address and lawful status in the United States.

601.4(1) Verification of identity and date of birth. To establish identity and date of birth, an applicant must submit at least one of the following documents. The department may require additional documentation.

a. A valid, unexpired U.S. passport or U.S. passport card.

b. A certified copy of a birth certificate and, if applicable, a certified amended or new birth certificate showing a change in name, date of birth or sex, filed with a state office of vital statistics or equivalent agency in the applicant's state of birth. The birth certificate must bear the issuing authority's certification of authenticity. A hospital-issued certificate is not acceptable. As used herein, "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

c. A Consular Report of Birth Abroad issued by the U.S. Department of State (Form FS-240, DS-1350 or FS-545).

d. A valid, unexpired Permanent Resident Card (Form I-551) issued by the U.S. Department of Homeland Security or U.S. Immigration and Naturalization Service.

e. An unexpired employment authorization document issued by the U.S. Department of Homeland Security (Form I-766 or Form I-688B).

f. An unexpired foreign passport with a U.S. visa affixed, accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States.

g. A Certificate of Naturalization issued by the U.S. Department of Homeland Security (Form N-550 or Form N-570).

h. A Certificate of Citizenship (Form N-560 or Form N-561) issued by the U.S. Department of Homeland Security.

i. A REAL ID driver's license or identification card as defined in 6 CFR Section 37.3.

j. Such other documents as the U.S. Department of Homeland Security may designate as acceptable proof of identity and date of birth for REAL ID purposes by notice published in the Federal Register.

k. A federal release identification card issued by the U.S. Department of Justice, Federal Bureau of Prisons, or an Inmate Descriptor Inquiry, Client Information Inquiry, or Offender Snapshot document issued by the Iowa department of corrections or the United States District Court, Northern and Southern Districts of Iowa that contains the applicant's full legal name and date of birth and is notarized. An application that includes only a document listed in this paragraph as proof of identity and date of birth is only eligible for a driver's license or nonoperator's identification card marked as not acceptable for federal purposes pursuant to 6 CFR Part 37.

601.4(2) *Verification of social security number.*

a. Except as provided in paragraph 601.4(2) "*b.*" an applicant must provide the applicant's Social Security Administration's account number.

b. An applicant who establishes identity by presenting the identity document listed in paragraph 601.4(1) "*f.*" (unexpired foreign passport with a valid, unexpired U.S. visa affixed and accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States) must provide the applicant's social security number or demonstrate non-work authorized status.

601.4(3) *Verification of Iowa residency and current residential address.*

a. An applicant must present two documents that include the applicant's name and current Iowa residential address and that demonstrate residency in the state of Iowa. Acceptable documents are issued by a person, organization or entity other than the applicant that include the issuer's name and address, include the applicant's name and current residential address and demonstrate residency in the state of Iowa. Acceptable documents are reasonable, authentic documents capable of verification by the department.

b. An acceptable address is a street or highway address and not a post office box. In areas where a number and street name have not been assigned, an address convention used by the U.S. Postal Service is acceptable. The current residence of a person with more than one dwelling is the dwelling for which the person claims a homestead tax credit under Iowa Code chapter 425, if applicable.

c. An applicant who is a member of the armed forces and is an Iowa resident stationed in another state or an applicant who is the spouse or dependent family member residing with a member of the armed forces that is an Iowa resident stationed in another state may use the applicant's address in the state of station as the applicant's current residential address if the applicant does not maintain an Iowa residence during the applicant's deployment outside the state of Iowa. The applicant must provide official documentation confirming the applicant's residential address in the state of station and that the applicant is stationed in that state. The applicant's mailing address may be the applicant's current residential address or another address at which the applicant receives mail.

601.4(4) *Verification of lawful status in the United States.*

a. If an applicant presents one of the identity documents listed under subrule 601.5(1), the department's verification of that identity document is satisfactory evidence of lawful status.

b. An applicant who presents only a document listed under paragraph 601.4(1) "*e.*" "*f.*" or "*i.*" is not eligible to receive a driver's license or nonoperator's identification card marked as REAL ID compliant unless the applicant also provides one of the other documents listed in subrule 601.4(1) or another United States Department of Homeland Security-approved document.

601.4(5) *Verification of name change.* The name listed on the driver's license or nonoperator's identification card that is issued will be identical to the name listed on the identity document submitted unless the applicant submits the chain of legal documents necessary to show the legal change of the applicant's name from the identity document submitted to the applicant's current legal name under paragraph 601.4(5) "*a.*" or "*b.*" Alternatively, an applicant who is an existing Iowa licensee or cardholder may confirm the applicant's current legal name as displayed on the applicant's license or card under the provisions of paragraph 601.4(5) "*c.*" The following documents are acceptable:

a. Court-ordered name change. A court order must contain the applicant's prior legal name, the applicant's court-ordered legal name, and the court's certification of authenticity. Acceptable court

orders include orders under petition for name change, orders for name change set forth in a decree of dissolution, and orders for name change set forth in a decree of adoption.

b. Certified copy of marriage certificate. The marriage certificate must be filed with a state office of vital statistics or equivalent agency in the person's state or country of marriage. The certificate must bear the issuing authority's certification of authenticity. A church, chapel or similarly issued certificate is not acceptable. As used herein, "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

c. Social security records match. The applicant must establish that the applicant's Social Security Administration's account number is issued in the applicant's current legal name as verified by the department with the Social Security Online Verification (SSOLV) system in accordance with 6 CFR Section 37.13(b)(2) effective January 1, 2024.

601.4(6) *Verification of change of date of birth.* The date of birth listed on the driver's license or nonoperator's identification card that is issued will be identical to the date of birth listed on the identity document submitted unless the applicant submits a certified amended or new birth certificate that documents the change of date of birth and complies with paragraph 601.4(1)"b."

601.4(7) *Verification of change of sex designation.* The sex designation listed on the driver's license or nonoperator's identification card that is issued will be identical to the sex designation listed on the identity document submitted unless the applicant does one of the following:

a. Applicants born in Iowa. An applicant born in Iowa must submit a certified amended or new Iowa birth certificate that documents the change of sex designation and complies with paragraph 601.4(1)"b."

b. Applicants born outside of Iowa.

(1) An applicant born outside of Iowa may document the change of sex designation by any of the following methods:

1. Submit a certified amended or new birth certificate from a state other than Iowa that documents the change of sex designation and complies with paragraph 601.4(1)"b."

2. Submit an amended or new Consular Report of Birth Abroad that documents the change of sex designation and complies with paragraph 601.4(1)"c."

3. Submit an amended or new Certificate of Citizenship that documents the change of sex designation and complies with paragraph 601.4(1)"h."

4. Submit a notarized affidavit from a physician and surgeon or osteopathic physician and surgeon that documents all of the following:

- The physician and surgeon or osteopathic physician and surgeon completed sex designation treatment for the applicant.

- A description of the medical procedures that constituted the treatment.

- As a result of the treatment, the applicant's sex designation was permanently changed by surgery or other treatment.

- The physician and surgeon or osteopathic physician and surgeon's full name, address, state of medical license, and medical license number.

(2) Pursuant to Iowa Code section 321.13, the department may make further investigation or require further information necessary to determine whether a change of sex designation occurred.

c. Documentation. Documentation provided under this subrule is to be submitted to the address or email address listed in subrule 601.1(3).

d. Name change. A change of sex designation does not effect a name change unless the applicant verifies a name change pursuant to subrule 601.4(5).

601.4(8) *Exception process.* As provided in 6 CFR Section 37.11(h) (REAL ID exceptions process) effective January 1, 2024, and notwithstanding any other provisions of this chapter or 761—Chapter 11 to the contrary, an applicant who, for reasons beyond the applicant's control, is unable to present a necessary document under this rule may apply to the department for an exception as provided in this subrule.

a. To apply for an exception under this rule, an applicant is to submit a written request to the department at the address or email address listed in subrule 601.1(3) or in person at any driver's license service center containing all of the following:

- (1) The applicant's name, address, date of birth and contact information.
- (2) Whether the applicant is applying for a driver's license or nonoperator's identification card.
- (3) A description of the necessary verification of identity and date of birth or verification of name change documents under this rule that the applicant is unable to provide and the reason why it is beyond the applicant's control to provide the document.
- (4) Any alternate document or other proof that exists to verify the facts contained in the missing document, which may include an approved I-94 form documenting the applicant's most recent admittance into the United States as verified by the U.S. Department of Homeland Security in accordance with 6 CFR Section 37.13 effective January 1, 2024.
- (5) Any other information or proof required by the department.

b. The motor vehicle division director or the director's designee may grant an exception under this rule if all of the following apply:

- (1) The applicant has submitted a written request with all of the required documentation under paragraph 601.4(8) "*a.*"
- (2) The applicant, as determined by the department, has sufficiently demonstrated that the applicant is unable to provide a necessary document under this rule due to reasons beyond the applicant's control.
- (3) The application of the subject rule will pose an undue hardship on the applicant, as determined by the department.
- (4) Granting the exception will not prejudice the substantial legal rights of any person, as determined by the department.

c. The department may place any condition on an exception issued under this rule that the department finds necessary to carry out the department's functions.

d. An exception under this subrule does not apply to a required document under subrule 601.4(2).

e. An alternate document accepted under this exception process to satisfy the provisions of subrule 601.4(4) is only allowed if the document demonstrates United States citizenship as required by 6 CFR Section 37.11(h) effective January 1, 2024.

f. An applicant's inability to pay for a necessary document under this rule does not meet the criteria for an exception under this subrule.

g. Nothing in this subrule requires the department to issue a driver's license or nonoperator's identification card if the applicant is not otherwise eligible. The department reserves the right to modify or cancel an exception at any time if the department finds that anything in the exception application or accompanying documentation was based on fraud or misrepresentation by the applicant or if the modification or cancellation is necessary based on a change in circumstances of the applicant.

h. An applicant whose request for exception under this rule has been denied may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13. The request for a hearing may be submitted in writing to the motor vehicle division. The request is to include, as applicable, the applicant's name, driver's license or nonoperator's identification number, date of birth, complete address and telephone number. The request is to be submitted within 20 days after the date of the notice of exception denial.

This rule is intended to implement Iowa Code chapter 17A and sections 321.13, 321.182 and 321.189; the REAL ID Act of 2005 (49 U.S.C. Section 30301 note) as amended by the REAL ID Modernization Act, H.R. 133, Division U, Title X; and 6 CFR Part 37.

761—601.5(321) Parent's, guardian's, or custodian's consent. The application of an unmarried person under the age of 18 years is subject to the following:

601.5(1) Form 430018, Parent's, Guardian's or Custodian's Consent to Issue Driver's License or Permit, or its equivalent must be submitted at the time of issuance or to the email address listed in subrule 601.1(3).

601.5(2) The form shall contain the verified consent and confirmation of the applicant's date of birth and be signed by either parent of the applicant, the guardian of the applicant, or a person having custody of the applicant under Iowa Code chapter 232 or 600A.

601.5(3) The signature, which may be electronic, is to be dated and subject to the following verification or its equivalent: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct." No exception will be made for the parent's, guardian's or custodian's absence from Iowa. A married person under the age of 18 years shall submit a marriage certificate that complies with paragraph 601.4(5) "b" in lieu of the consent form.

This rule is intended to implement Iowa Code section 321.184.

761—601.6(321) REAL ID driver's license. A person who seeks a driver's license that is compliant with the REAL ID Act of 2005, 49 U.S.C. Section 30301 note, as implemented in 6 CFR Part 37 ("REAL ID driver's license") effective January 1, 2024, must meet and comply with all lawful requirements for an Iowa driver's license and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided will be verified pursuant to 6 CFR Section 37.13. An applicant for a REAL ID driver's license is subject to a mandatory facial image capture that meets the requirements of 6 CFR Section 37.11(a). A REAL ID driver's license may not be issued, reissued or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued or renewed by any procedure, in any circumstance, to any person or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID driver's license must include all information and markings required by 6 CFR Section 37.17. Nothing in this rule requires a person to obtain a REAL ID driver's license.

This rule is intended to implement Iowa Code chapter 321; the REAL ID Act of 2005 (49 U.S.C. Section 30301 note) as amended by the REAL ID Modernization Act, H.R. 133, Division U, Title X; and 6 CFR Part 37.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 602
“Classes of Driver’s Licenses”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)“j,” 321.180, 321.180B, 321.189 and 321.194

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.1, 321.8, 321.177, 321.178, 321.180, 321.180A, 321.180B, 321.189, 321.194, 321.196 and 321.213B

Public Hearing

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

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

[Microsoft Teams Link](#)
Or dial: 515.817.6093
Conference ID: 750 530 221

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 provide guidance to members of the public on the classes of driver’s licenses and driver permits issued by the Department and the accompanying eligibility requirements and to comply with changes made to classes of driver’s licenses available to minors pursuant to 2024 Iowa Acts, Senate File 2109.

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 statutes.

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

Persons seeking information on the classes of driver’s licenses issued by the Department and the associated eligibility criteria will benefit from these rules.

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 statutes.

• **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 that the public relies on for understanding the classes of driver's licenses issued by the Department and the associated eligibility criteria.

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.

• **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond that of the underlying statutes.

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 transparency on the classes of driver's licenses issued by the Department and the associated eligibility criteria.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently classes of driver's licenses issued by the Department and the associated eligibility criteria.

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.

• **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 to obtain the class of driver's license sought.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 602 and adopt the following **new** chapter in lieu thereof:

CHAPTER 602
CLASSES OF DRIVER'S LICENSES

761—602.1(307,321) Information and location. Applications, forms and information regarding driver's licenses are available at any driver's license service center or by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; by telephone at 515.244.8725; by facsimile at 515.239.1837; or on the department's website at www.iowadot.gov/driversvehicles.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 321.8.

761—602.2(307,321) Definitions.

"Iowa-approved course" means a course in driver education, motorcycle rider education or motorized bicycle rider education approved by the department.

"License" means driver's license as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

"Member of permittee's immediate family" means as follows:

1. As used in Iowa Code section 321.180(1), the permittee's parent or guardian or a brother, a sister or other relative of the permittee who resides at the permittee's residence.
2. As used in Iowa Code sections 321.180B(1) and 321.180B(2), a brother, a sister or other relative of the permittee who resides at the permittee's residence.

"Provider" means a provider of an Iowa-approved course.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.1, 321.180 and 321.180B.

761—602.3(321) Driver's licenses.

602.3(1) Classes. The department issues the following classes of driver's licenses. All licenses issued, including special licenses and permits, shall carry a class designation. A license will be issued for only one class, except that Class M may be issued in combination with another class.

Class A—commercial driver's license (CDL)

Class B—commercial driver's license (CDL)

Class C—commercial driver's license (CDL)

Class C—noncommercial driver's license

Class D—noncommercial driver's license (chauffeur)

Class M—noncommercial driver's license (motorcycle)

602.3(2) Special licenses and permits. The department issues the following special licenses and permits. More than one type of special license or permit may be issued to an applicant. On the driver's license, a restriction number designates the type of special license or permit issued as follows:

1—Motorcycle instruction permit—includes motorcycle instruction permits issued under Iowa Code sections 321.180(1) and 321.180B(1)

2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)—includes instruction permits, other than motorcycle instruction permits, issued under Iowa Code sections 321.180(1), 321.180A and 321.180B(1)

3—Commercial learner's permit

4—Chauffeur's instruction permit

5—Motorized bicycle (moped) license

6—Minor's restricted work license

7—Special minor's restricted license

8—Special instruction permit

602.3(3) *Commercial driver's license (CDL).* More information is contained in 761—Chapter 607 on the procedures, requirements and validity of a commercial driver's license (Classes A, B and C) and a commercial learner's permit, and their restrictions and endorsements.

This rule is intended to implement Iowa Code sections 321.178, 321.180, 321.180A, 321.180B, 321.189, and 321.194.

761—602.4(307,321) Certificates of completion and forms.

602.4(1) *Iowa-approved course.* Proof of successful completion of an Iowa-approved course shall be submitted to the department on Form 430036 or through an online reporting system used by participating providers.

602.4(2) *Out-of-state course.*

a. If a student completed a course in another state, a provider of an Iowa-approved course may issue the form or online completion, if applicable, for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

b. If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form or online completion, if applicable, after the student completes the missing components.

602.4(3) *Affidavit for special minor's restricted license.* Form 430021 shall be used for submitting the required statements, affidavits and parental consent for a special minor's restricted license. More information is contained in rule 761—602.9(321).

602.4(4) *Certification and consent for employment and multiple residences.* Form 430022 shall be used to satisfy the requirements of Iowa Code section 321.194(2) and 321.194(9). In addition to the information required under Iowa Code section 321.194(2), the form must contain the employer's contact information and any other information required by the department.

602.4(5) *Waiver of accompanying driver for intermediate licensee.* Form 431170 is the waiver described in Iowa Code section 321.180B(2). This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

a. If the waiver is for employment, the form must be signed by the licensee's employer.

b. If the licensee attends a public school and the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. If the licensee attends an accredited nonpublic school and the waiver is for school-related extracurricular activities, the form must be signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority.

c. If the licensee receives competent private instruction or independent private instruction, the form must be signed by the licensee's primary instructor.

d. The form must be signed by the licensee's parent or guardian. However, the parent's or guardian's signature is not required if the licensee is married and the original or a certified copy of the marriage certificate is in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

602.4(6) *Passenger restriction for intermediate licensee.* The passenger restriction required by Iowa Code section 321.180B(2) will be added to an intermediate license unless waived by the licensee's parent or guardian at the time the license is issued. If the restriction is not waived at the time the license is issued, the intermediate license will be designated with a "9" restriction with the following notation: "Only 1 unrelated minor passenger allowed until [six months from the date the license is issued]." The licensee must obey the restriction for the first six months after the intermediate license is issued. If a parent or guardian wishes to waive the passenger restriction after the license has already been issued, the licensee and the parent or guardian must apply for a duplicate license and pay the replacement fee pursuant to 761—subrule 605.11(4).

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.8, 321.178, 321.180B, 321.184, 321.189, and 321.194.

761—602.5(307,321) Class C noncommercial driver’s license.

602.5(1) *Validity.* A noncommercial Class C driver’s license that is not a special license or permit is valid for operating:

- a. A motor vehicle, including an autocycle as defined in Iowa Code section 321.1, that does not require a commercial driver’s license or a Class D driver’s license for its operation.
- b. A motorized bicycle.
- c. A motorcycle only if the license has a motorcycle endorsement.

602.5(2) *Requirements.*

- a. Except as otherwise provided in Iowa Code section 321.178(3), an applicant under 18 years of age must meet the requirements of Iowa Code section 321.180B and submit proof of successful completion of an Iowa-approved course in driver education.
- b. For purposes of determining eligibility for an intermediate license issued to a person 16 or 17 years of age under Iowa Code section 321.180B(2):

(1) The 12-month period during which the applicant is required to possess an instruction permit before applying for an intermediate license is calculated cumulatively and includes any period of time during which the applicant has held a valid instruction permit issued under Iowa Code section 321.180B(1), a special minor’s restricted license issued under Iowa Code section 321.194 or comparable instruction permit or license issued by another state, but excludes any period of time during which the permit or license is suspended, revoked or canceled or the applicant otherwise did not have a valid driving privilege.

(2) The six-month period during which the applicant is required to remain accident- and violation-free is calculated continuously and must encompass without interruption the six-month period of time immediately preceding the application. The applicant must hold a valid instruction permit issued under Iowa Code section 321.180B(1), a special minor’s restricted license issued under Iowa Code section 321.194 or a comparable instruction permit or license issued by another state and maintain a valid driving privilege without interruption throughout the continuous six-month period.

(3) The three-month waiting period required under Iowa Code section 321.194(7)“b,” if applicable, will be calculated to begin on the licensee’s sixteenth birthday and must be satisfied in addition to the requirements of subparagraphs 602.5(2)“b”(1) and 602.5(2)“b”(2). Any additional three-month waiting period will begin on the date the previous waiting period (if any) expires.

c. For purposes of determining eligibility for a full license issued to a person 17 years of age under Iowa Code section 321.180B(4), the 12-month period during which the applicant is required to possess an intermediate license and to remain accident- and violation-free before applying for a full license is calculated together and continuously and must encompass without interruption the 12-month period of time immediately preceding the application. The applicant must hold a valid intermediate license issued under Iowa Code section 321.180B(2) or a comparable license issued by another state and maintain a valid driving privilege without interruption throughout the continuous 12-month period.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.1, 321.177, 321.178, 321.180B, 321.189, 321.194 and 321.196.

761—602.6(307,321) Class D noncommercial driver’s license (chauffeur).

602.6(1) *Validity.* A noncommercial Class D driver’s license is valid for operating:

- a. A motor vehicle as a chauffeur as specified by the endorsement on the license unless the type of vehicle or type of operation requires a commercial driver’s license.
- b. A motor vehicle that may be legally operated under a noncommercial Class C driver’s license, including a motorized bicycle.
- c. A motorcycle only if the license has a motorcycle endorsement.

602.6(2) Requirement. The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation as listed in 761—subrule 605.7(3).

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.1 and 321.189.

761—602.7(307,321) Class M noncommercial driver’s license (motorcycle).

602.7(1) Validity. A noncommercial Class M driver’s license that is not a special license or permit is valid for operating:

- a. A motorcycle. However, the license may have a restriction that limits operation to a three-wheel motorcycle.
- b. A motorized bicycle.

602.7(2) Requirements.

- a. An applicant shall be at least 16 years of age.
- b. Except as otherwise provided in Iowa Code section 321.178(3), an applicant under 18 years of age must meet the requirements of Iowa Code section 321.180B and submit proof of successful completion of both an Iowa-approved course in driver education and an Iowa-approved course in motorcycle rider education.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.177, 321.178, 321.180B, 321.189 and 321.196.

761—602.8(299,321) Minor’s restricted work license.

602.8(1) Validity.

- a. A minor’s restricted work license is a restricted, noncommercial Class C or Class M driver’s license.

b. The type of motor vehicle that may be operated is controlled by the class of driver’s license issued. A Class C minor’s restricted work license is valid for operating a motorcycle only if the license has a motorcycle endorsement. A minor’s restricted work license is valid for operating a motorized bicycle only for the purposes specified in Iowa Code section 321.178(2).

- c. The license is valid for two years or until the licensee attains age 18, whichever is sooner.

602.8(2) Requirements. An applicant who qualifies under Iowa Code section 321.178(2) must submit the following to the department:

- a. A statement from the employer confirming the applicant’s employment.
- b. Proof of nonattendance at school. Proof of nonattendance is receipt of notification from the appropriate school authority that the applicant does not attend school as described in 761—subrule 615.23(2).
- c. Proof of successful completion of an Iowa-approved course in driver education.
- d. For a Class M minor’s restricted work license or a motorcycle endorsement, proof of successful completion of an Iowa-approved course in motorcycle rider education.

This rule is intended to implement Iowa Code sections 299.1B, 321.178, 321.180B, 321.189, 321.196 and 321.213B.

761—602.9(321) Special minor’s restricted license.

602.9(1) Validity.

- a. A special minor’s restricted license is a restricted, noncommercial Class C or Class M driver’s license.

b. The type of motor vehicle that may be operated is controlled by the class of driver’s license issued. A Class C special minor’s restricted license is valid for operating a motorcycle only if the license has a motorcycle endorsement. A special minor’s restricted license is valid for operating a motorized bicycle.

- c. The license is valid for four years or until the licensee attains age 18, whichever is sooner.

602.9(2) Requirements. An applicant who qualifies under Iowa Code section 321.194(1) and 321.194(3) must submit the following to the department:

- a.* Form 430021, containing the required certification under Iowa Code section 321.194(6).
- b.* Proof of successful completion of an Iowa-approved driver's education course.
- c.* For a Class M special minor's restricted license or a motorcycle endorsement, proof of successful completion of an Iowa-approved course in motorcycle rider education.

602.9(3) *Exemption.*

a. An applicant is not required to have completed an approved driver education course if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant; however, the applicant must meet all other requirements for a special minor's restricted license. "Hardship" means the applicant's parent, guardian or custodian does not qualify as a teaching parent as defined in Iowa Code section 321.178A(2) "c" and the applicant meets one of the following criteria:

(1) If the applicant is 14 years old, that a driver education course will not begin at the applicant's school(s) of enrollment or at a public school in the applicant's district of residence within one year following the applicant's fourteenth birthday.

(2) If the applicant is 15 years old, that a driver education course will not begin at the applicant's school(s) of enrollment or at a public school in the applicant's district of residence within six months following the applicant's fifteenth birthday.

(3) If the applicant is between 16 and 18 years old, that a driver education course is not offered at the applicant's school(s) of enrollment or at a public school in the applicant's district of residence at the time the request for hardship status is submitted to the department.

(4) That the applicant is a person with a disability. In this rule, "person with a disability" means that, because of a disability or impairment, the applicant is unable to walk in excess of 200 feet unassisted or cannot walk without causing serious detriment or injury to the applicant's health.

b. "Demonstrates to the satisfaction of the department" means the applicant has provided the department written proof that a hardship exists signed by the applicant's parent, guardian or custodian and the applicable school authority authorized to sign the certification form for a special minor's restricted license pursuant to Iowa Code section 321.194(6).

c. The department reserves the right to verify any assertion made in the application for hardship exemption under this subrule.

602.9(4) *Multiple residences.*

a. A special minor's restricted license approved for travel to and from up to three residences pursuant to Iowa Code section 321.194(9) "d" is not valid for travel directly between each residence unless the licensee is accompanied in accordance with Iowa Code section 321.180B(1) or unless the travel is for the purposes set forth in and subject to the limitations of Iowa Code section 321.194(4) or 321.194(5).

b. The primary residential address listed on Form 430021 will appear on the face of the license.

This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 607
“Commercial Driver Licensing”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.187, 321.187A, 321.188, and 321M.6A

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A and sections 22.11, 321.1, 321.12, 321.174, 321.176A, 321.176B, 321.177, 321.180, 321.182, 321.186, 321.186A, 321.187, 321.187A, 321.188, 321.189, 321.191, 321.193, 321.196, 321.199, 321.201, 321.207, 321.208, 321.208A, 321.449 and 321M.6A

Public Hearing

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

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

[Microsoft Teams Link](#)
Phone: 515.817.6093
Conference ID: 909 649 929

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 sections 321.187 and 321.188, which require the Department to adopt rules to administer commercial driver’s licenses in compliance with Federal Motor Carrier Safety Administration (FMCSA) regulations and designate third-party testers to perform commercial driver’s license knowledge and skills tests. The rules outline the application, eligibility, and testing requirements to obtain a commercial driver’s license (CDL) and the governance structure for third-party test examiners. A CDL is required to operate specified commercial motor vehicles on Iowa roadways and in interstate commerce.

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 statutes.

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

Persons seeking to obtain a CDL or become a third-party CDL tester will benefit from these rules by knowing the eligibility criteria, application process, and testing procedures for CDL issuance and the guidelines for third-party CDL testers.

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 statutes, which require the Department to adopt rules to administer CDLs in conformance with FMCSA regulations and to designate third-party testers to perform CDL knowledge and skills tests.

- **Qualitative description of impact:**

Reorganizing, streamlining, and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version of the chapter that includes information the public relies on for understanding how to obtain a CDL or become a third-party CDL tester.

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 chapter that were not already required as a result of the underlying statutes. The statutes require the Department to adopt rules to administer CDLs in conformance with FMCSA regulations and to designate third-party testers to perform CDL knowledge and skills tests.

- **Anticipated effect on state revenues:**

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

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 regarding the processes and requirements for obtaining a CDL or becoming a third-party CDL tester.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain a CDL or to become a third-party CDL tester.

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 adopt rules to administer CDLs in conformance with FMCSA regulations and to designate third-party testers to perform CDL knowledge and skills tests.

- **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 to obtain a CDL or become a third-party CDL tester.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 607 and adopt the following **new** chapter in lieu thereof:

CHAPTER 607
COMMERCIAL DRIVER LICENSING

761—607.1(321) Scope. This chapter applies to licensing persons for the operation of commercial motor vehicles. Unless otherwise stated, the provisions of this chapter are in addition to other motor vehicle licensing rules in Iowa Code chapter 321.

This rule is intended to implement Iowa Code section 321.188.

761—607.2(321) Information.

607.2(1) Information and location. Applications, forms and information about the commercial driver's license (CDL) are available at any driver's license service center. Assistance is also available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.244.8725; by facsimile at 515.239.1837; or on the department's website at www.iowadot.gov/mvd/cdl/CDL-homepage.

607.2(2) Manual. Copies of the study manual for the commercial driver's license tests are available upon request at any driver's license service center and on the department's website.

This rule is intended to implement Iowa Code section 321.188.

761—607.3(321) Definitions. The definitions in Iowa Code section 321.1 apply to this chapter of rules. In addition, the following definitions are adopted:

"Air brake system" means a system that uses air as a medium for transmitting pressure or force from the driver's control to the service brake. "Air brake system" shall include any braking system operating fully or partially on the air brake principle.

"Air over hydraulic brakes" means any braking system operating partially on the air brake and partially on the hydraulic brake principle.

"Automatic transmission" means any transmission other than a manual transmission.

"CDLIS" means "commercial driver's license information system" as defined in Iowa Code section 321.1.

"Commercial driver's license downgrade" or *"CDL downgrade"* means the same as defined in 49 CFR Section 383.5 (October 1, 2024).

"Commercial motor vehicle" or *"CMV"* as defined in Iowa Code section 321.1 does not include a motor vehicle designed as off-road equipment rather than as a motor truck, such as a forklift, motor grader, scraper, tractor, trencher or similar industrial-type equipment. "Commercial motor vehicle" also does not include self-propelled implements of husbandry described in Iowa Code section 321.1(32).

"Controlled substance" as used in Iowa Code section 321.208 means a substance defined in Iowa Code section 124.101.

"Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Section 5103 and is required to be placarded under 49 CFR Part 172, Subpart F, or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73.

“Manual transmission” means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated either by hand or by foot. All other transmissions, whether semi-automatic or automatic, will be considered automatic.

“Medical examiner” means a person who is licensed, certified or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced registered nurse practitioners, and doctors of chiropractic.

“Medical examiner’s certificate” means a certificate completed and signed by a medical examiner under the provisions of 49 CFR Section 391.43 and includes medical examiner’s certificate information provided electronically by the Federal Motor Carrier Safety Administration pursuant to 49 CFR Section 383.71 and 49 CFR Section 383.73.

“Medical variance” means a driver has received one of the following from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

1. An exemption letter permitting operation of a commercial motor vehicle pursuant to 49 CFR Part 381, Subpart C; 49 CFR Section 391.62; or 49 CFR Section 391.64.
2. A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 CFR Section 391.49.

“National drug and alcohol clearinghouse” means the database maintained by the Federal Motor Carrier Safety Administration as defined in 49 CFR Section 382.107 (October 1, 2024).

“Passenger vehicle” means either of the following:

1. A motor vehicle designed to transport 16 or more persons including the operator.
2. A motor vehicle of a size and design to transport 16 or more persons including the operator that has been redesigned or modified to transport fewer than 16 persons with disabilities. The size of a redesigned or modified vehicle shall be any such vehicle with a gross vehicle weight rating of 10,001 or more pounds.

“School bus” means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events unless otherwise provided in Iowa Code section 321.1(69). “School bus” does not include a bus used as a common carrier.

“Self-certification” means a written certification of which category of type of driving an applicant for a commercial driver’s license engages in or intends to engage in, from the following categories:

1. Non-excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR Part 391 effective October 1, 2024, and is required to obtain a medical examiner’s certificate by 49 CFR Section 391.45 effective October 1, 2024.
2. Excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce but engages exclusively in transportation or operations excepted under 49 CFR Section 390.3(f), 391.2, 391.68 or 398.3 effective October 1, 2024, from all or parts of the qualification requirements of 49 CFR Part 391 effective October 1, 2024, and is therefore not required to obtain a medical examiner’s certificate by 49 CFR Section 391.45 effective October 1, 2024.
3. Non-excepted intrastate. The person certifies that the person operates only in intrastate commerce and is subject to state driver qualification requirements.
4. Excepted intrastate. The person certifies that the person operates only in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements as set forth in Iowa Code section 321.449.

“State,” as used in this chapter and in “another state” in Iowa Code section 321.174(2), “former state of residence” in Iowa Code section 321.188(5), or “any state” in Iowa Code section 321.208(1), means one of the United States or the District of Columbia unless the context means the state of Iowa.

This rule is intended to implement Iowa Code sections 321.1, 321.174, 321.188, 321.191, 321.193, 321.207 and 321.208.

761—607.4(22,321) Records. The department will maintain the operating record of a person issued a commercial driver's license or a commercial learner's permit or a person who has been disqualified from operating a commercial motor vehicle as provided in the department's "Record Management Manual" adopted in 761—Chapter 4.

This rule is intended to implement Iowa Code sections 22.11, 321.12, 321.188 and 321.199.

761—607.5(321) Adoption of federal regulations.

607.5(1) Code of Federal Regulations. The department's administration of commercial driver's licenses shall be in compliance with the state procedures set forth in 49 CFR Section 383.73, and this chapter shall be construed to that effect. The department adopts the following portions of the Code of Federal Regulations, which are referenced throughout this chapter of rules:

- a. 49 CFR Section 391.11 as adopted in 661—Chapter 22.
- b. 49 CFR Section 392.5 as adopted in 661—Chapter 22.
- c. 49 CFR Part 380, Subpart F (October 1, 2024).
- d. The following portions of 49 CFR Part 383 (October 1, 2024):
 - (1) Section 383.51, Disqualification of drivers.
 - (2) Subpart E—Testing and Licensing Procedures.
 - (3) Subpart F—Vehicle Groups and Endorsements.
 - (4) Subpart G—Required Knowledge and Skills.
 - (5) Subpart H—Tests.
- e. 49 CFR Part 384, Subpart B (October 1, 2024).

607.5(2) Copies of regulations. Copies of the federal regulations may be reviewed at the state law library or through the Internet at www.fmcsa.dot.gov.

This rule is intended to implement Iowa Code sections 321.187, 321.188, 321.207, 321.208 and 321.208A.

761—607.6(321) Application. An applicant for a commercial driver's license shall comply with the requirements of Iowa Code sections 321.180(2) "e," 321.182 and 321.188 and 761—Chapter 601, and provide the proofs of citizenship or lawful permanent residence and state of domicile required by 49 CFR Section 383.71. If the applicant is domiciled in a foreign jurisdiction and applying for a nondomiciled commercial driver's license, the applicant must provide a document required by 49 CFR Section 383.71(f).

This rule is intended to implement Iowa Code sections 321.180, 321.182 and 321.188.

761—607.7(321) Commercial driver's license (CDL).

607.7(1) Classes. The department may issue a commercial driver's license only as a Class A, B or C driver's license. The license class identifies the types of vehicles that may be operated. A commercial driver's license may have endorsements that authorize additional vehicle operations or restrictions that limit vehicle operations.

607.7(2) Validity.

a. A Class A commercial driver's license allows a person to operate a combination of commercial motor vehicles as specified in Iowa Code sections 321.1(11) and 321.189(1) "a"(1). With the required endorsements and subject to the applicable restrictions, a Class A commercial driver's license is valid to operate any vehicle. Before the department administers the skills test for a Class A commercial driver's license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

b. A Class B commercial driver's license allows a person to operate a commercial motor vehicle as specified in Iowa Code sections 321.1(11) and 321.189(1) "a"(2). With the required endorsements and subject to the applicable restrictions, a Class B commercial driver's license is valid to operate any vehicle except a truck-tractor semitrailer combination or a vehicle requiring a Class A commercial driver's license. Before the department administers the skills test for a Class B commercial driver's

license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

c. A Class C commercial driver's license allows a person to operate a commercial motor vehicle as specified in Iowa Code sections 321.1(11) and 321.189(1)"a"(3) if the vehicle is designed to transport 16 or more passengers, including the driver, or is used in the transportation of hazardous materials as defined in 49 CFR Section 383.5 effective October 1, 2024. With the required endorsements and subject to the applicable restrictions, a Class C commercial driver's license is valid to operate any vehicle except a vehicle requiring a Class A or Class B commercial driver's license. Before the department administers the skills test for a Class C commercial driver's license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements as provided in Iowa Code section 321.188 for the applicable endorsement sought (P/Passenger or S/School Bus endorsements). Before the department administers the knowledge test for a Class C commercial driver's license to an applicant for the first time, the applicant must comply with the entry-level driver training requirements provided in Iowa Code section 321.188 for the applicable endorsement sought (H/Hazardous materials endorsement).

d. A commercial driver's license is valid for operating a motorcycle as a commercial motor vehicle only if the license has a motorcycle endorsement and a hazardous material endorsement. A commercial driver's license is valid for operating a motorcycle as a noncommercial motor vehicle only if the license has a motorcycle endorsement.

e. A commercial driver's license valid for eight years will be issued to a qualified applicant who is at least 18 years of age but not yet 78 years of age. However, the expiration date of the license issued shall not exceed the licensee's 80th birthday.

f. A commercial driver's license valid for two years will be issued to a qualified applicant 78 years of age or older. A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

g. A commercial driver's license is valid for 60 days after the expiration date.

h. A person with a commercial driver's license valid for the vehicle operated is not required to obtain a Class D driver's license to operate the vehicle as a chauffeur.

607.7(3) Age. The minimum age to obtain a commercial driver's license is set out in 49 CFR Part 391, Subpart B, effective October 1, 2024, except that, for a person operating solely intrastate, the driver age qualifications are set out in Iowa Code section 321.449(3).

607.7(4) License extension.

a. As provided in 49 CFR Section 383.153, a person may apply for a 60-day extension of a commercial driver's license if the person:

- (1) Has a valid license,
- (2) Is eligible for further licensing, and
- (3) Is temporarily absent from Iowa or is temporarily incapacitated at the time for renewal.

b. License extensions can be requested following the procedure in 761—subrule 605.15(2).

c. A 60-day extension will be added to the expiration date on the license. When the person appears to renew the license, the expiration date of the renewed license will be computed from the expiration date of the original license, notwithstanding the extension.

d. Only one 60-day extension is allowed.

This rule is intended to implement Iowa Code sections 321.1(8), 321.177, 321.182, 321.188, 321.189, 321.196, and 321.449.

761—607.8(321) Endorsements. All endorsements except the hazardous material endorsement continue to be valid without retesting or additional fees when renewing or upgrading a license. The endorsements that authorize additional commercial motor vehicle operations with a commercial driver's license are:

607.8(1) Hazardous material. A hazardous material endorsement (H) is required to transport hazardous materials. The hazardous material endorsement is only valid when the applicant or holder

of the endorsement complies with the Transportation Security Administration's security threat assessment standards specified in 49 CFR Sections 383.71(b)(8) and 383.141 effective October 1, 2024. Before the department administers the knowledge test for a hazardous material endorsement to an applicant for the first time, the applicant shall comply with the entry-level driver training requirements as provided in Iowa Code section 321.188. To obtain or retain the hazardous material endorsement, the applicant or holder must pass a knowledge test as required under 49 CFR Section 383.121 and pay the endorsement fee. Retesting and fee payment are also required when an applicant transfers a commercial driver's license from another state unless, as provided in 49 CFR Section 383.73, the transfer applicant provides evidence of passing the knowledge test as required under 49 CFR Section 383.121 within the preceding 24 months. Pursuant to 49 CFR Section 173.5 effective October 1, 2024, a farmer or a person working for a farmer is not subject to the hazardous material endorsement while operating either a pickup or a special truck within 150 air miles of the farmer's farm to transport supplies to or from the farm.

607.8(2) *Passenger vehicle.* A passenger vehicle endorsement (P) is required to operate a passenger vehicle as defined in rule 761—607.3(321). Before the department administers the skills test for a passenger vehicle endorsement to an applicant for the first time, the applicant shall comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

607.8(3) *Tank vehicle.* A tank vehicle endorsement (N) is required to operate a tank vehicle as defined in Iowa Code section 321.1. A vehicle transporting a tank, regardless of the tank's capacity, that does not otherwise meet the definition of a commercial motor vehicle in Iowa Code section 321.1 is not a tank vehicle.

607.8(4) *Double/triple trailer.* A double/triple trailer endorsement (T) is required to operate a commercial motor vehicle with two or more towed trailers when the combination of vehicles meets the criteria for a Class A commercial motor vehicle. Operation of a triple trailer combination vehicle is not permitted in Iowa.

607.8(5) *Hazardous material and tank.* A combined endorsement (X) authorizes both hazardous material and tank vehicle operations.

607.8(6) *School bus.* A school bus endorsement (S) is required to operate a school bus as defined in rule 761—607.3(321). An applicant for a school bus endorsement must also qualify for a passenger vehicle endorsement. Before the department administers the skills test for a school bus endorsement to an applicant for the first time, the applicant shall comply with the entry-level driver training requirements as provided in Iowa Code section 321.188.

607.8(7) *Exceptions for towing operations.*

a. A driver who tows a vehicle in an emergency “first move” from the site of a vehicle malfunction or accident on a highway to the nearest appropriate repair facility is not required to have the endorsement(s) applicable to the towed vehicle. In any subsequent move, a driver who tows a vehicle from one repair or disposal facility to another is required to have the endorsement(s) applicable to the towed vehicle with one exception: A tow truck driver is not required to have a passenger endorsement to tow a passenger vehicle.

b. The double/triple trailer endorsement is not required to operate a commercial motor vehicle with two or more towed vehicles that are not trailers.

This rule is intended to implement Iowa Code sections 321.1, 321.176A, 321.188 and 321.189.

761—607.9(321) Restrictions. The restrictions that may limit commercial motor vehicle operation with a commercial driver's license are listed in 761—subrule 605.8(3) and are explained below:

607.9(1) *Air brake.* The air brake restriction (L, no air brake equipped CMV) applies to a licensee who either fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes and prohibits the operation of a commercial motor vehicle equipped with an air brake system until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.9(2) Full air brake. The full air brake restriction (Z, no full air brake equipped CMV) applies to a licensee who performs the skills test in a vehicle equipped with air over hydraulic brakes and prohibits the operation of a commercial motor vehicle equipped with any braking system operating fully on the air brake principle until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.9(3) Manual transmission. The manual transmission restriction (E, no manual transmission equipped CMV) applies to a licensee who performs the skills test in a vehicle equipped with automatic transmission and prohibits the operation of a commercial motor vehicle equipped with a manual transmission until the licensee passes the required tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.9(4) Tractor-trailer. The tractor-trailer restriction (O, no tractor trailer CMV) applies to a licensee who performs the skills test in a combination vehicle for a Class A commercial driver's license with the power unit and towed unit connected with a pintle hook or aftermarket fifth wheel connection and prohibits operation of a tractor-trailer combination connected by a fifth wheel that requires a Class A commercial driver's license until the licensee passes the required tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.9(5) Class A passenger vehicle. The Class A passenger vehicle restriction (M, no Class A passenger vehicle) applies to a licensee who applies for a passenger endorsement and performs the skills test in a passenger vehicle that requires a Class B commercial driver's license and prohibits operation of a passenger vehicle that requires a Class A commercial driver's license.

607.9(6) Class A and B passenger vehicle. The Class A and B passenger vehicle restriction (N, no Class A and B passenger vehicle) applies to a licensee who applies for a passenger endorsement and performs the skills test in a passenger vehicle that requires a Class C commercial driver's license and prohibits operation of a passenger vehicle that requires a Class A or Class B commercial driver's license.

607.9(7) Intrastate only. The intrastate only restriction (K, intrastate only) applies to a licensee who self-certifies to non-excepted intrastate or excepted intrastate driving and prohibits the operation of a commercial motor vehicle in interstate commerce.

607.9(8) Medical variance. The medical variance restriction (V, medical variance) applies to a licensee when the department is notified pursuant to 49 CFR Section 383.73(o)(3) that the driver has been issued a medical variance and indicates there is information about a medical variance on the CDLIS driver record.

This rule is intended to implement Iowa Code sections 321.189 and 321.191.

761—607.10(321) Commercial learner's permit.

607.10(1) Validity.

a. A commercial learner's permit allows the permit holder to operate a commercial motor vehicle when accompanied as required by Iowa Code section 321.180(2)“d.”

b. A commercial learner's permit is valid for one year without retaking the general and endorsement knowledge tests required by Iowa Code section 321.188.

c. A commercial learner's permit is invalid after the expiration date of the underlying commercial or noncommercial driver's license issued to the permit holder or the expiration date of the permit, whichever occurs first.

d. The issuance of a commercial learner's permit is a precondition to the initial issuance of a commercial driver's license. The issuance of a commercial learner's permit is also a precondition to the upgrade of a commercial driver's license if the upgrade requires a skills test. If the permit holder is subject to the requirement to complete entry-level driver training as provided in Iowa Code section 321.188, the commercial learner's permit will be necessary to complete the on-road segment of the entry-level driver training as well as the required skills tests for a commercial driver's license. The holder of a commercial learner's permit is not eligible to take a required driving skills test for the first

14 days after the permit holder is issued the permit. The 14-day period includes the day the commercial learner's permit was issued.

EXAMPLE: The commercial learner's permit is issued on September 1. The earliest date the permit holder would be eligible to take the skills test is September 15.

e. A commercial learner's permit is not valid for the operation of a vehicle transporting hazardous materials.

607.10(2) Requirements.

a. An applicant for a commercial learner's permit must hold a valid Class A, B, or C commercial driver's license, a Class D, endorsement 3 noncommercial driver's license or a Class C noncommercial driver's license issued in this state that is not an instruction permit, a special instruction permit, a motorized bicycle license or a temporary restricted license; must be at least 18 years of age; and must meet the requirements to obtain a valid commercial driver's license, including the requirements set forth in Iowa Code section 321.188. However, the applicant does not have to complete the driving skills tests required for a commercial driver's license to obtain a commercial learner's permit.

b. The applicant must successfully pass a general knowledge test that meets the federal standards contained in 49 CFR Part 383, Subparts F, G and H, for the commercial motor vehicle the applicant operates or expects to operate, including any endorsement for which the applicant applies.

607.10(3) Endorsements. A commercial learner's permit may include the following endorsements. All other endorsements are prohibited on a commercial learner's permit.

a. An applicant for a passenger endorsement (P) must take and pass the passenger endorsement knowledge test. A commercial learner's permit holder with a passenger endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d."

b. An applicant for a school bus endorsement (S) must take and pass the school bus endorsement knowledge test. A commercial learner's permit holder with a school bus endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d."

c. An applicant for a tank vehicle endorsement (N) must take and pass the tank vehicle endorsement knowledge test. A commercial learner's permit holder with a tank vehicle endorsement may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials and that has not been purged of any residue.

607.10(4) Restrictions. A commercial learner's permit may include the air brake (L), medical variance (V), Class A passenger vehicle (M), Class A and B passenger vehicle (N) and intrastate only (K) restrictions described in rule 761—607.9(321). In addition, a commercial learner's permit may include the following restrictions that are specific to the commercial learner's permit:

a. *Passenger.* The passenger restriction (P, no passengers in CMV bus) applies to a permit holder who has a commercial learner's permit with a passenger or school bus endorsement and prohibits the operation of a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d."

b. *Cargo.* The cargo restriction (X, no cargo in CMV tank vehicle) applies to a permit holder who has a commercial learner's permit with a tank vehicle endorsement and prohibits the operation of any tank vehicle containing cargo or any tank vehicle that previously contained hazardous materials and that has not been purged of any residue.

This rule is intended to implement Iowa Code sections 321.180, 321.186 and 321.188.

761—607.11(321) Examination and vision screening. In addition to the knowledge and skills tests required under this chapter, an applicant for a commercial driver's license or commercial learner's

permit is subject to the examination requirements, and must comply with the vision screening and vision standards, in 761—Chapter 604.

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

761—607.12(321) Knowledge tests.

607.12(1) *General knowledge test.* The general knowledge test for a commercial driver's license is a written test of topics such as vehicle inspection, operation, safety and control in accordance with 49 CFR Section 383.111.

607.12(2) *Additional tests.* In addition to the general knowledge test for a commercial driver's license, an additional knowledge test is required for each of the following:

- a. Class A license for combination vehicle operation under 49 CFR Section 383.111.
- b. Hazardous material endorsement under 49 CFR Section 383.121. The knowledge test for a hazardous material endorsement shall not be administered orally or in a language other than English.
- c. Passenger vehicle endorsement under 49 CFR Section 383.117.
- d. Tank vehicle endorsement under 49 CFR Section 383.119.
- e. Double/triple trailer endorsement under 49 CFR Section 383.115.
- f. School bus endorsement under 49 CFR Section 383.123. The applicant must also qualify for a passenger vehicle endorsement.
- g. Removal of the air brake restriction under 49 CFR Section 383.111.

607.12(3) *Test methods.* All knowledge tests will be administered in compliance with 49 CFR Section 383.133(b). All tests other than the hazardous material endorsement test may be administered in written form or verbally in an automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

607.12(4) *Waiver.* A waiver of any knowledge test is permitted only as provided in Iowa Code section 321.188(5) and this chapter.

607.12(5) *Military waiver.* The department may waive the requirement that an applicant pass a required knowledge test for an applicant who is a current or former military service member as defined in 49 CFR Section 383.5 effective October 1, 2024. An applicant for a waiver of the knowledge test under this subrule shall certify and provide evidence, as required by the department, that the following apply:

- a. The applicant is regularly employed or was regularly employed within the past year in a military position specifically designated in 49 CFR Section 383.77.
- b. The applicant is or was operating a vehicle representative of the commercial motor vehicle the applicant operates or expects to operate immediately preceding honorable separation from military service as evidenced by the applicant's certificate of release or discharge from active duty, commonly referred to as a DD Form 214.
- c. The applicant has not had more than one driver's license, other than a military license.
- d. The applicant has not had any driver's license suspended, revoked, or canceled.
- e. The applicant has not been convicted of an offense committed while operating any type of motor vehicle that is listed as a disqualifying offense in 49 CFR Section 383.51(b).
- f. The applicant has not had more than one conviction for an offense committed while operating any type of motor vehicle that is listed as a serious traffic violation in 49 CFR Section 383.51(c).
- g. The applicant has not had a conviction for violation of a military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no record of an accident in which the applicant was at fault.

607.12(6) *Requirement.* An applicant must pass the applicable knowledge test(s) before taking the skills test. Passing scores for a knowledge test shall meet the standards contained in 49 CFR Section 383.135(a).

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

761—607.13(321,321M) Skills test.

607.13(1) Content. The skills test for a commercial driver's license is a three-part test as required in 49 CFR Part 383, Subparts E, G and H.

607.13(2) Test methods. All skills tests will be administered in compliance with 49 CFR Section 383.133(c). Interpreters are prohibited during the administration of skills tests. However, American Sign Language interpreters are allowed to interpret during the instruction portion preceding administration of the skills test. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

607.13(3) Order. The skills test must be administered and successfully completed in the following order: pre-trip inspection, basic vehicle control skills, on-road skills. If an applicant fails one segment of the skills test, the applicant cannot continue to the next segment of the test, and scores for the passed segments of the test are only valid during initial issuance of the commercial learner's permit.

607.13(4) Vehicle. The applicant shall provide a representative vehicle for the skills test. "Representative vehicle" means a commercial motor vehicle that meets the statutory description for the class of license applied for.

a. To obtain a passenger vehicle endorsement applicable to a specific vehicle class, the applicant must take the skills test in a passenger vehicle satisfying the requirements of that class, as required in 49 CFR Section 383.117.

b. To obtain a school bus endorsement, the applicant must qualify for a passenger vehicle endorsement and take the skills test in a school bus in the same vehicle class as the applicant will drive, as required in 49 CFR Section 383.123.

c. To obtain a tank endorsement, the applicant must take the skills test in a representative vehicle for the class of license applied for, but the representative vehicle is not required to be a tank vehicle.

d. To remove an air brake or full air brake restriction, the applicant must take the skills test in a vehicle equipped with an air brake system and as required in 49 CFR Section 383.113.

e. To remove a manual transmission restriction, the applicant must take the on-road segment of the skills test in a vehicle equipped with a manual transmission.

607.13(5) Skills test scoring. Passing scores for a skills test shall meet the standards contained in 49 CFR Section 383.135(b).

607.13(6) Military waiver. The department may waive the requirement that an applicant pass a required skills test for an applicant who is on active duty in the military service or who has separated from such service in the past year, provided the applicant meets the requirements of Iowa Code section 321.188(6).

607.13(7) Locations. The skills test for a commercial driver's license will be given only at approved locations where adequate testing facilities are available as specified by the department pursuant to 49 CFR Section 383.131(b)(1). An applicant may contact any driver's license service center for the location of the nearest skills testing center.

607.13(8) Fees. Fees authorized pursuant to Iowa Code sections 321.187A and 321M.6A may be collected by the department or a county treasurer location offering commercial driver's license skills tests.

a. Except as provided in paragraph 607.13(8)"c," the fee for an applicant to schedule the pre-trip vehicle inspection segment of the skills test with the department is \$25. No fees are due to the department for scheduling the basic vehicle control skills or on-road skills segment of the test.

b. Except as provided in paragraph 607.13(8)"c," the fee to schedule the pre-trip vehicle inspection segment of the skills test with a county treasurer is \$25. The fee for a county treasurer to administer the basic vehicle control skills segment is \$25, and the fee to administer the on-road skills segment of the test is \$25. However, if the applicant fails one segment of the driving skills test, no fee shall be due for a subsequent segment of the test.

c. If the applicant is an employee or volunteer of a government agency as defined in Iowa Code section 553.3, the following apply:

(1) The department will not charge the pre-trip inspection scheduling fee under paragraph 607.13(8)“a.”

(2) A county treasurer may charge only the pre-trip inspection fee under paragraph 607.13(8)“b.”

(3) An applicant must provide the department or county treasurer with reasonable proof that the applicant is an employee or volunteer of a qualifying government agency and that a commercial driver’s license is necessary for the applicant’s employment or volunteer duties. Reasonable proof is to be provided on Form 430311. Alternatively, if the applicant is seeking a skills test from a county treasurer, reasonable proof may include payment of the pre-trip inspection fee by a government agency on behalf of the applicant.

d. If an applicant fails to appear for the pre-trip inspection segment of the skills test, the appointment will be canceled and no other applicable fees are due.

e. Except as provided in paragraph 607.13(8)“g,” new fees will apply if an applicant schedules a new skills test appointment.

f. The department or a county treasurer may collect any fees due and owed for the skills test at the same time any fees are collected as part of the commercial driver’s license issuance transaction.

g. Any fees collected under this subrule are nonrefundable. However, nothing in this paragraph shall be construed as preventing the department or a county treasurer from transferring a fee charged for a pre-trip inspection to a new pre-trip inspection if rescheduling the appointment is determined necessary or appropriate as determined by the department or county treasurer upon a showing of good cause.

h. A skills test fee charged under this subrule that remains unpaid may be collected at the person’s next driver’s license renewal or replacement.

This rule is intended to implement Iowa Code sections 321.186, 321.187A, 321.188 and 321M.6A.

761—607.14(321) Third-party testing.

607.14(1) Purpose and definitions. The knowledge tests required by rule 761—607.12(321) and the skills test required by rule 761—607.13(321) may be administered by third-party testers and third-party test examiners approved and certified by the department. For the purpose of administering third-party testing and this rule, the following definitions are adopted:

“*College or university*” means an Iowa postsecondary school established under Iowa Code chapter 261B.

“*Community college*” means an Iowa community college established under Iowa Code chapter 260C.

“*Government agency*” means the same as defined in Iowa Code section 553.3.

“*Iowa business*” means a corporation, association, partnership, company, firm, or other aggregation of individuals that has a principal place of business in this state and that is authorized to conduct business in this state.

“*Knowledge test*” means the knowledge tests required by rule 761—607.12(321).

“*Motor carrier*” means the same as defined in 49 CFR Section 390.5 effective October 1, 2024.

“*Nonprofit*” means a corporation or association that satisfies the requirements under Iowa Code chapter 498 or 504.

“*Permanent commercial driver training facility*” means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier’s commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pretrip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-

surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

“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.

“Public transit system” means the same as defined in Iowa Code section 324A.1.

“Regional transit system” means the same as defined in Iowa Code section 324A.1.

“Regular business hours” means to be consistently open to the public on a weekly basis at hours reported to the motor vehicle division.

“Skills test” means the skills test required by rule 761—607.13(321).

“Subsidiary” means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

“Third-party test examiner” means the same as defined in Iowa Code section 321.187.

“Third-party tester” means the same as defined in Iowa Code section 321.187.

607.14(2) *Certification of third-party testers.*

a. The department may certify any of the following entities as a third-party tester to administer knowledge and skills tests:

- (1) A college or university.
- (2) A community college.
- (3) A government agency.
- (4) An Iowa business.
- (5) A nonprofit.
- (6) A public transit system or regional transit system.

b. An entity seeking certification as a third-party tester shall contact the motor vehicle division and schedule a review of the proposed testing program, including the proposed testing courses and facilities, and provide information sufficient to identify all proposed third-party test examiners, and any other information necessary to demonstrate compliance with 49 CFR Parts 383 and 384 as amended to October 1, 2024, applicable to knowledge and skills testing.

c. No entity will be certified to conduct third-party testing unless and until the entity enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates, to the satisfaction of the department, sufficient ability and facilities to conduct knowledge and skills tests in a manner that consistently meets the requirements of 49 CFR Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing.

d. The department will issue a certified third-party tester a certificate of authority that identifies the classes and types of vehicles for which knowledge and skills tests may be administered. The certificate is valid for the duration of the agreement executed pursuant to paragraph 607.14(2)“c,” unless revoked by the department for engaging in fraudulent activities related to conducting knowledge and skills tests or failing to comply with the requirements, qualifications, and standards of this chapter, the agreement, or 49 CFR Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing.

e. The department will revoke a certificate of authority originally issued after July 1, 2023, to a third-party tester if the third-party tester fails to administer a minimum of 50 percent of all knowledge and skills tests given in a calendar year to Iowa applicants. However, the department will not revoke a certificate of authority of a third-party tester who administers a minimum of 10 percent of all knowledge and skills tests given in a calendar year to Iowa applicants if the remainder of the tests are given to current or prospective employees of the third-party tester. For the purpose of this paragraph, an “Iowa applicant” is defined as an individual who holds a valid commercial learner’s permit, commercial driver’s license, noncommercial driver’s license, or nonoperator identification card issued by the department or who otherwise qualifies as a resident of this state under Iowa Code section 321.1A(1).

607.14(3) *Certification of third-party test examiners.*

a. A certified third-party tester shall not employ or otherwise use as a third-party test examiner a person who has not been approved and certified by the department to administer knowledge or skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party test examiners to the department. The department will not approve as a third-party test examiner a person who does not meet the requirements, qualifications, and standards of 49 CFR Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing, including but not limited to all required training and examination, who has been barred from conducting commercial driver's license testing in another state, or who has not passed a nationwide criminal background check. The criteria for passing the nationwide criminal background check means no felony convictions within the last ten years and no convictions involving fraudulent activities.

b. The department will issue a certificate of authority for each person certified as a third-party test examiner that identifies the certified third-party tester for which the person will administer knowledge or skills tests and the classes and types of vehicles for which the person may administer knowledge or skills tests. The certificate is valid for a period of four years from the date of issuance of the certificate.

c. The department will revoke the certificate of authority for a third-party test examiner to administer skills tests if the person holding the certificate does not administer skills tests to at least ten different applicants, each of whom has successfully passed all three segments of the skills test, per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting knowledge or skills tests as determined by the department; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing. Notwithstanding anything in this paragraph to the contrary, as provided in 49 CFR Section 383.75, if the person does not administer skills tests to at least ten different applicants per calendar year, the certificate will not be revoked for that reason if the person provides proof of completion of the examiner refresher training in 49 CFR Section 384.228 to the department and successfully completes one skills test under the observation of a department examiner or attends and passes with a score of 80 percent or better a certified commercial examiner training test and successfully completes one skills test under the observation of a department examiner.

d. The department will revoke the certificate of authority for a third-party test examiner to administer knowledge tests if the person holding the certificate does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years, is involved in fraudulent activities related to conducting knowledge or skills tests or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge testing.

e. A third-party test examiner certified by the department to administer skills tests who is also a skills instructor shall not administer a skills test to an applicant who received skills training from that third-party test examiner.

f. A third-party test examiner may only administer CDL tests for the examiner's primary employer, unless authorized by the department to administer CDL tests for another county or third-party tester.

607.14(4) Bond. As a condition of certification in accordance with 49 CFR Section 383.75, a third-party tester that is not a government agency as defined in Iowa Code section 553.3 must maintain a bond in the amount of \$50,000 to pay for the retesting of drivers in the event that the third-party tester or one or more of its third-party test examiners are involved in fraudulent activities related to conducting tests of CDL applicants.

607.14(5) Training and refresher training for third-party test examiners. All training and refresher training required under this rule shall be provided by the department, in form and content that meet the recommendations of the American Association of Motor Vehicle Administrators' International Third-Party Examiner/Tester Certification Program.

This rule is intended to implement Iowa Code section 321.187.

761—607.15(321) Test results.

607.15(1) *Period of validity.* Passing knowledge and skills test results remain valid for a period of one year.

607.15(2) *Retesting.* Subject to rule 761—607.13(321), an applicant will be required to repeat only the knowledge test(s) or part(s) of the skills test that the applicant failed, unless the department requires the applicant to retake the test as part of an audit. An applicant who fails a test is not permitted to repeat that test the same day. An applicant may be required to repeat a test if the department determines the test was improperly administered.

607.15(3) *Skills test results from other states.* As required by 49 CFR Section 383.79, the department will accept the valid results of a skills test administered to an applicant who is domiciled in the state of Iowa and that was administered by another state, in accordance with 49 CFR Part 383, Subparts F, G and H, in fulfillment of the applicant's testing requirements under 49 CFR Section 383.71 and the state's test administration requirements under 49 CFR Section 383.73 provided the results are transmitted directly from the testing state to the department as required by 49 CFR Section 383.79.

607.15(4) *Knowledge and skills test results from certified third-party testers.* A third-party tester shall transmit the results of tests administered by the third-party tester through secure electronic means determined by the department. The department may retest any person who has passed a knowledge or skills test administered by a certified third-party tester if the department believes the knowledge or skills test was administered fraudulently or improperly, and as needed to meet the third-party test examiner oversight requirements of 49 CFR Parts 383 and 384 applicable to knowledge and skills testing.

607.15(5) *Downgrade or cancellation when retesting is required.*

a. When retesting is required under subrule 607.15(2) or 607.15(4), the department will notify the person to retake the applicable knowledge or skills test, which may include an immediate retest if part of an audit.

b. If the person fails to contact the department within 30 days after receipt of the notice, fails to appear for a scheduled retest, or fails the knowledge or skills test, the department will, in accordance with the authority in 49 CFR Section 383.5 and Iowa Code section 321.201, take one of the following actions:

(1) Downgrade the person's commercial driver's license or commercial learner's permit if the person held valid noncommercial driving privileges prior to obtaining the license or permit.

(2) Cancel the person's commercial driver's license or commercial learner's permit pursuant to 761—subrule 615.7(3) if the applicant did not hold valid noncommercial driving privileges prior to obtaining the license or permit.

c. All applicable retesting and licensure requirements apply to a person seeking to regain the person's commercial driver's license or commercial learner's permit after a downgrade or cancellation.

This rule is intended to implement Iowa Code sections 321.180, 321.186, 321.187, 321.188 and 321.201.

761—607.16(321) Knowledge and skills testing of nondomiciled military personnel.

607.16(1) *Role of state of duty station.* The department may accept an application for a commercial driver's license or commercial learner's permit, including an application for waiver of the knowledge test as provided in subrule 607.12(5), if the applicant is an active duty military service member stationed, but not domiciled, in Iowa, and the department has an agreement to accept such applications with the applicant's state of domicile as provided in 49 CFR Section 383.79.

a. The applicant shall certify and provide evidence that the following apply:

- (1) The applicant is regularly employed or was regularly employed within the past year in a military position requiring operation of a commercial motor vehicle.
- (2) The applicant has a valid driver's license from the applicant's state of domicile.
- (3) The applicant has a valid active duty military identification card.
- (4) The applicant has a current copy of either the applicant's military leave and earnings statement or the applicant's orders.

b. If the applicant meets the requirements of paragraph 607.16(1) "a" and the department has an agreement with the applicant's state of domicile as provided in this subrule, the department may do either of the following:

- (1) Administer the knowledge and skills tests to the applicant as appropriate in accordance with 49 CFR Part 383, Subparts F, G, and H, if the state of domicile requires those tests; or
- (2) Waive the knowledge and skills tests in accordance with 49 CFR Section 383.77 and this chapter if the state of domicile also permits waiver of the knowledge and skills test.

c. The department may destroy the applicant's driver's license on behalf of the state of domicile unless the state of domicile requires the driver's license to be surrendered to the state of domicile's driver's licensing agency.

607.16(2) *Electronic transmission of application and test results.* The department will transmit to the state of domicile the applicant's application, any supporting documents and the results of any skills or knowledge tests administered as provided under this rule.

607.16(3) *Role of state of domicile.* If the department has an agreement with the applicant's state of duty station, upon completion of the applicant's application pursuant to 49 CFR Section 383.71 and any testing administered by the applicant's state of duty station pursuant to 49 CFR Sections 383.71 and 383.73, the department may do all of the following:

a. Accept the completed application, any supporting documents, and the results of the knowledge and skills tests administered by the applicant's state of duty station.

b. Issue the applicant a CLP or CDL.

This rule is intended to implement Iowa Code sections 321.180, 321.186, 321.187, and 321.188.

761—607.17(321) Commercial driver's license renewal. The department will administer commercial driver's license renewals as required by 49 CFR Section 383.73.

607.17(1) *Licensee requirements.* Unless eligible for electronic renewal pursuant to subrule 761—605.25(8), to renew a commercial driver's license, the licensee shall apply at a driver's license service center and complete the following requirements:

a. Provide a written self-certification of type of driving as required by rule 761—607.23(321) and, if required, provide a current medical examiner's certificate unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration.

b. If the licensee currently holds and wants to retain a hazardous material endorsement, pass the test required in 49 CFR Section 383.121 and comply with the Transportation Security Administration security threat assessment standards specified in 49 CFR Section 383.71(b)(8) and 49 CFR Section 383.141 effective October 1, 2024, for such endorsement. A lawful permanent resident of the United States must also provide the licensee's U.S. Citizenship and Immigration Services alien registration number.

c. Provide proof of citizenship or lawful permanent residency and state of domicile as required by rule 761—607.6(321) and 49 CFR Section 383.73(d)(7) unless proof of citizenship or lawful permanent residency was previously provided and the department has a notation on the licensee's record confirming that the required proof of legal citizenship or legal presence check was made and the date on which it was made.

d. If the licensee is domiciled in a foreign jurisdiction and renewing a non-domiciled commercial driver's license, provide a document required by 49 CFR Section 383.71(f) at each renewal.

607.17(2) *Early renewal.* A valid commercial driver's license may be renewed 90 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed 364 days prior to the expiration date. The department may allow renewal earlier than 364 days prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.

This rule is intended to implement Iowa Code sections 321.186, 321.188 and 321.196.

761—607.18(321) Transfers from another state. Upon initial application for an Iowa license, an Iowa resident who has a valid commercial driver's license from a former state of residence is not required to retest except as specified in Iowa Code section 321.188(5) but is required to pay the applicable endorsement and restriction removal fees.

This rule is intended to implement Iowa Code sections 321.188 and 321.191.

761—607.19(17A,321) Disqualification.

607.19(1) *Date.* A disqualifying act, action or offense under Iowa Code section 321.208, that occurred before July 1, 1990, shall not be grounds for disqualification from operating a commercial motor vehicle.

607.19(2) *Notice.* A 30-day advance notice of disqualification shall be served by the department in accordance with rule 761—615.37(321). Pursuant to Iowa Code section 321.208(12), a peace officer on behalf of the department may serve the notice of disqualification immediately.

607.19(3) *Hearing and appeal process.* A person who has received a notice of disqualification may contest the disqualification in accordance with 761—615.38(17A,321).

607.19(4) *Reduction of lifetime disqualification.*

a. As permitted by 49 CFR Section 383.51, a person subject to lifetime disqualification of the person's commercial driving privileges may apply to the department for reinstatement. The approval is subject to the discretion of the department and subject to the following requirements:

(1) The request may not be made prior to ten years from the effective date of the lifetime disqualification.

(2) The person must submit the request in a manner prescribed by the department.

(3) If the driving record contains alcohol-related or drug-related offenses that resulted in the lifetime disqualification, the person must have completed an alcohol or drug evaluation and have completed any recommended treatment that meets or exceeds the minimum standards approved by the Iowa department of health and human services. Evidence of a completed evaluation and treatment must be on file with the department or submitted with the application for reinstatement.

(4) Within the ten years preceding the request, the person must not have any of the following moving violation convictions:

1. A drug or alcohol offense.

2. Leaving the scene of an accident.

3. A felony involving the use of any motor vehicle.

4. Any moving violation while operating a commercial motor vehicle.

(5) The department may request, and the person shall provide, any additional information or documentation necessary to determine the person's eligibility for reinstatement or general fitness for licensure.

b. If the department finds the person is eligible for reinstatement under this subrule, the person shall do all of the following prior to reinstatement:

(1) Pay all outstanding reinstatement fees.

(2) Meet all outstanding reinstatement requirements.

(3) Pass the required knowledge, vision, and skills tests as specified in Iowa Code section 321.188.

(4) Complete any other courses or requirements as required by the director.

c. As provided in 49 CFR Section 383.51(a)(6), a person who has been disqualified for life for offenses committed under 49 CFR Section 383.51(b)(9) and (10), and a person who has previously had the person's commercial driving privileges reinstated pursuant to this subrule but is convicted of a new disqualifying offense, is not eligible to apply for reinstatement.

d. If the department determines the person is not eligible for reinstatement as provided in this subrule, the department will send notice by first-class mail to the person's mailing address as shown on departmental records that the lifetime disqualification remains in effect.

607.19(5) *Fraud related to testing and issuance.*

a. As required by 49 CFR Section 383.73(k) and Iowa Code section 321.201(2)“b,” the department will disqualify the commercial driver's license or commercial learner's permit of a person convicted or suspected of fraud related to the testing for or issuance of a commercial driver's license or commercial learner's permit.

b. Upon receipt of a person's conviction of fraud related to the issuance of the commercial driver's license or commercial learner's permit, the department will disqualify the person's commercial driver's license or commercial learner's permit for one year.

c. Upon receipt of credible evidence that a person is suspected of committing fraud relating to the issuance of a commercial driver's license or a commercial learner's permit, the department will notify the person of the requirement to retake the applicable knowledge or skills test. Within 30 days of receiving notice from the department, the person is required to contact the department to retake the knowledge or skills test. If the person fails to contact the department within 30 days after the notice, or the person fails the knowledge or skills test, or does not take the test, the department will disqualify the person's commercial driver's license or commercial learner's permit.

d. Once a person's commercial driver's license or commercial learner's permit has been disqualified, a new application for license will be required following the usual procedures as provided in Iowa Code section 321.188 and this chapter.

This rule is intended to implement Iowa Code chapter 17A and section 321.208.

761—607.20(321) Sanctions. When a person's motor vehicle license is denied, canceled, suspended, revoked or barred, the person is also disqualified from operating a commercial motor vehicle.

This rule is intended to implement Iowa Code section 321.208.

761—607.21(321) Reinstatement. To reinstate a commercial driver's license after completion of a period of disqualification, a person must appear at a driver's license service center, meet the vision standards for licensing, pass the applicable knowledge test(s) and the skills test, and pay the required reinstatement fee and the fees for a new license.

This rule is intended to implement Iowa Code sections 321.191 and 321.208.

761—607.22(321) Restricted commercial driver's license.

607.22(1) *Scope.* This rule pertains to the issuance of restricted commercial driver's licenses to employees of the following designated farm-related service industries: agrichemical businesses, custom harvesters, farm retail outlets and suppliers and livestock feeders as permitted by 49 CFR Section 383.3(f). A restricted commercial driver's license shall meet all requirements of a regular commercial driver's license, as set out in Iowa Code chapter 321 and this chapter, except as specified in this rule.

607.22(2) *Validity.*

a. A restricted commercial driver's license allows the licensee to drive a commercial motor vehicle for agricultural input purposes. The license is valid to:

- (1) Operate Class B and Class C commercial motor vehicles, including tank vehicles and vehicles equipped with air brakes, except passenger vehicles.
- (2) Transport the hazardous materials listed in paragraph 607.22(2)“b.”
- (3) Operate only during the current, validated seasonal period.

(4) Operate between the employer's place of business and the farm currently being served, not to exceed 150 miles.

b. A restricted commercial driver's license is not valid for transporting hazardous materials requiring placarding, except as follows:

(1) Liquid fertilizers such as anhydrous ammonia may be transported in vehicles or implements of husbandry with total capacities of 3,000 gallons or less.

(2) Solid fertilizers such as ammonium nitrate may be transported, provided they are not mixed with any organic substance.

(3) A hazardous material endorsement is not needed to transport the products listed in the preceding subparagraphs.

c. When not driving for agricultural input purposes, the license is valid for operating a noncommercial motor vehicle that may be legally operated under the noncommercial license held by the licensee.

607.22(3) Requirements.

a. The applicant must have two years of previous driving experience. This means that the applicant held a license that permits unaccompanied driving for at least two years, including an intermediate license issued pursuant to Iowa Code section 321.180B. This does not include a motorized bicycle license, a special minor's restricted license or a minor's restricted work license.

b. The applicant must have a good driving record for the most recent two-year period as defined in subrule 607.22(4).

c. An applicant who currently holds an unrestricted commercial driver's license is not eligible for issuance of a restricted commercial driver's license.

607.22(4) Good driving record. A "good driving record" means a driving record showing:

a. No multiple licenses.

b. No driver's license suspensions, revocations, disqualifications, denials, bars, or cancellations of any kind.

c. No convictions in any type of motor vehicle for:

(1) Driving under the influence of alcohol or drugs.

(2) Leaving the scene of an accident.

(3) Committing any felony involving a motor vehicle.

(4) Speeding 15 miles per hour or more over the posted speed limit.

(5) Reckless driving, drag racing, or eluding or attempting to elude a law enforcement officer.

(6) Improper or erratic lane changes.

(7) Following too closely.

(8) A moving violation that contributed to a motor vehicle accident.

(9) A violation deemed serious under rule 761—615.17(321).

d. No record of contributive accidents as defined in rule 761—615.1(321).

607.22(5) Issuance.

a. The knowledge and skills tests described in rules 761—607.12(321) and 761—607.13(321) are waived.

b. A restricted commercial driver's license will be coded with restriction "W" on the face of the driver's license, with the restriction explained in text on the back of the driver's license. In addition, the license will be issued with a restriction stating the license's period of validity.

c. The expiration date for a restricted commercial driver's license that is converted from another Iowa license will carry the same expiration date as the previous license.

d. A restricted commercial driver's license may be renewed for the period of time specified in Iowa Code section 321.196. The licensee's good driving record will be confirmed at the time of renewal.

e. A licensee may have up to three individual periods of validity for a restricted commercial driver's license, provided the cumulative period of validity for all individual periods does not exceed 210 days in any calendar year. An individual period of validity may be 70, 105, or 210 consecutive

days, at the election of the licensee. A licensee may add 35 days to an individual period of validity by applying for an extension, subject to the 210-day cumulative maximum period of validity. A request for extension must be made no later than the date of expiration of the individual period of validity for which an extension is requested; a request for extension made after that date will be treated as a request for a new individual period of validity. An extension will be calculated from the date of expiration of the individual period of validity for which an extension is requested. Any period of validity authorized previously by another state's license will be considered a part of the 210-day cumulative maximum period of validity.

f. A restricted commercial driver's license must be validated for commercial motor vehicle operation for each individual period of validity. This means the department will confirm the person's good driving record at each application for an individual period of validity. Upon confirmation, the department will issue a replacement license with a restriction validating the license for that individual period of validity, provided the person is otherwise eligible for the license.

g. The requirements of this subrule must be met for each individual period of validity within a calendar year.

This rule is intended to implement Iowa Code section 321.176B.

761—607.23(321) Self-certification of type of driving and submission of medical examiner's certificate.

607.23(1) *Applicants for a commercial learner's permit, a restricted commercial driver's license, or a duplicate, new, transferred, renewed or upgraded CDL.*

a. A person shall provide to the department a self-certification of type of driving if the person is applying for:

- (1) A commercial learner's permit.
- (2) An initial commercial driver's license.
- (3) A transfer of a commercial driver's license from a prior state of domicile to the state of Iowa.
- (4) Renewal of a commercial driver's license.
- (5) A license upgrade for a commercial driver's license or an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license.
- (6) A restricted commercial driver's license.
- (7) A duplicate of any of the credentials listed in subparagraphs (1) through (6) above.

b. The self-certification shall be on a form or in a format, which may be electronic, as determined by the department.

607.23(2) *Submission of medical examiner's certificate by persons certifying to non-excepted interstate driving.* Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate, unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. The department will not issue, transfer, renew, or upgrade a license until the department receives a medical examiner's certificate that complies with the requirements of this subrule, or unless the person changes the person's self-certification of type of driving to a type other than non-excepted interstate driving. When the department receives a current medical examiner's certificate, the department will post information required by 49 CFR Section 383.73 and a medical certification status of "certified" on the person's CDLIS driver's record. A person who self-certifies to a type of driving other than non-excepted interstate will not have a medical certification status on the CDLIS driver's record.

607.23(3) *Maintaining certified status.* To maintain a medical certification status of "certified," a person who self-certifies to non-excepted interstate driving must give the department a copy of each subsequently issued medical examiner's certificate valid for the person unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration.

607.23(4) *CDL downgrade.* If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department will post a medical certification status of "not certified" to the person's CDLIS driver's record and will initiate a downgrade of the person's commercial driver's license or commercial learner's permit. The medical examiner's certificate of a person who fails to maintain a medical certification status of "certified" as required by subrule 607.23(3) is deemed expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. The department will provide the person written notice that the person's medical certification status is "not certified" and that the commercial motor vehicle privileges will be removed from the person's commercial driver's license or commercial learner's permit 60 days after the date the medical examiner's certificate or medical variance expired or the medical variance was removed or rescinded unless the department receives a current medical certificate or medical variance or the person self-certifies to a type of driving other than non-excepted interstate.

b. If the department receives a current medical examiner's certificate or medical variance before the end of the 60-day period, the department will post a medical certification status of "certified" on the person's CDLIS driver's record and will terminate the downgrade of the person's commercial driver's license or commercial learner's permit.

c. If the person self-certifies to a type of driving other than non-excepted interstate before the end of the 60-day period, the department will not remove the commercial motor vehicle privileges from the person's commercial driver's license or commercial learner's permit, and the person will have no medical certification status on the person's CDLIS driver's record.

d. If the requirements in either paragraph 607.23(4) "*b*" or "*c*" are not met before the end of the 60-day period, the department will remove the commercial motor vehicle privileges from the person's commercial driver's license or commercial learner's permit and will leave the person's medical certification status as "not certified" on the person's CDLIS driver's record.

607.23(5) *Establishment or reestablishment of "certified" status.* A person who has no medical certification status or whose medical certification status has been posted as "not certified" on the person's CDLIS driver's record may have the person's status established or reestablished as "certified" if the department receives a current medical examiner's certificate or medical variance. A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department will then post a medical certification status of "certified" on the person's CDLIS driver's record.

607.23(6) *Reestablishment of the CDL privilege.* A person whose commercial motor vehicle privileges have been removed from the person's commercial driver's license or commercial learner's permit under the provisions of paragraph 607.23(4) "*d*" may have the person's commercial motor vehicle privileges reestablished if either of the following occurs:

a. The department receives the person's current medical examiner's certificate or medical variance. A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department will then post a medical certification status of "certified" on the person's CDLIS driver's record and reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver's license or commercial learner's permit.

b. The person self-certifies to a type of driving other than non-excepted interstate. The department will then reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver's license or commercial learner's permit; the person will have no medical certification status on the driver's CDLIS driver's record.

607.23(7) *Change of type of driving.* A person may change the person's self-certification of type of driving at any time. As required by subrule 607.23(2), the department must receive a copy of the

person's current medical examiner's certificate prepared by a medical examiner for a person certifying to non-excepted interstate driving.

607.23(8) *Recordkeeping.* The department will comply with the medical recordkeeping requirements set forth in 49 CFR Section 383.73.

607.23(9) *Medical examiner's certificate conflict.* As required by 49 CFR Sections 383.71 and 383.73, in the event of a conflict between the medical certification information provided electronically by the Federal Motor Carrier Safety Administration and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by the Federal Motor Carrier Safety Administration shall supersede.

This rule is intended to implement Iowa Code sections 321.182, 321.188 and 321.207.

761—607.24(321) National drug and alcohol clearinghouse.

607.24(1) *Applicability.* This rule applies to:

- a. An applicant for or holder of a commercial learner's permit,
- b. An applicant for or holder of a commercial driver's license,
- c. An applicant seeking to transfer a commercial driver's license from a prior state of domicile to the state of Iowa,
- d. An applicant seeking renewal of a commercial driver's license,
- e. An applicant seeking to upgrade a commercial driver's license or add an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license, or
- f. An applicant for or holder of a restricted commercial driver's license.

607.24(2) *Issuance procedures.* Prior to issuing the license or permit, the department will request information from the national drug and alcohol clearinghouse to determine if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR Section 382.501(a). The department will not issue, renew, transfer, or upgrade the license or permit if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR Section 382.501(a). However, this subrule is not in effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver's license agency compliance with national drug and alcohol clearinghouse requirements.

607.24(3) *CDL downgrade.* Upon receiving notification that pursuant to 49 CFR Section 382.501(a) the person is prohibited from operating a commercial motor vehicle, the department will downgrade the license or permit and record the downgrade on the CDLIS driver record within 60 days of the department's receipt of such notification. However, this subrule is not in effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver's license agency compliance with national drug and alcohol clearinghouse requirements. The downgrade will be initiated and completed as follows:

a. The department will give the person written notice that the person is prohibited from operating a commercial motor vehicle due to notification the department received from the national drug and alcohol clearinghouse that the person has engaged in conduct prohibited by 49 CFR Section 382.501(a) and that upon receipt of the notification, the department initiated a downgrade of the person's CLP or CDL.

b. If the department receives notification that the person is no longer prohibited from operating a commercial motor vehicle before the downgrade is completed, the department will terminate the downgrade process without removing the CLP or CDL privilege from the driver's license, transmit the information to the person's CDLIS driver record, and send written notice to the person.

c. If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that a driver is no longer prohibited from operating a commercial motor vehicle, the department will record the end of the downgrade on the person's CDLIS driver record, reinstate the CLP or CDL privilege to the driver's license, and send written notice to the person.

d. If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that the person was erroneously identified as prohibited from operating a commercial motor vehicle, the department will reinstate the CLP or CDL privilege to the driver's license as expeditiously as possible and remove from the CDLIS driver record and driving record any reference related to the person's erroneous prohibited status.

607.24(4) *Limitation on hearing and appeal.* An informal settlement, hearing, or appeal to contest the downgrade is limited to a determination of whether the facts required by Iowa Code sections 321.188 and 321.207 and this rule are true. The merits of the information conveyed by the national drug and alcohol clearinghouse to the department shall not be considered.

This rule is intended to implement Iowa Code sections 321.188 and 321.207.

761—607.25(321) Determination of gross vehicle weight rating.

607.25(1) *Actual weight prohibited.* In determining whether the vehicle is a representative vehicle for the skills test and the group of commercial driver's license for which the applicant is applying, the vehicle's gross weight rating or gross combination weight rating must be used, not the vehicle's actual gross weight or gross combination weight. For purposes of this rule, "gross weight rating" and "gross combination weight rating" mean the same as defined in 49 CFR Section 383.5 effective October 1, 2024.

607.25(2) *Vehicle without legible manufacturer's certification label.* To complete a skills test using a vehicle that has no legible manufacturer's certification label, whether a power unit or towed vehicle, the applicant must provide documentation of the vehicle's gross vehicle weight rating, such as a manufacturer's certificate of origin, a title, or the vehicle identification number information for the vehicle. In the absence of such documentation, the vehicle may not be used, either alone or in combination.

This rule is intended to implement Iowa Code section 321.1.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 625
“Driver’s Licenses for Undercover Law Enforcement Officers”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.189A

State or federal law(s) implemented by the rulemaking: 6 CFR 37.11 and Iowa Code sections 22.7, 80G.3, 321.189, 321.189A, and 321.196

Public Hearing

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

March 14, 2025
3 to 3:30 p.m.

[Microsoft Teams Link](#)
Phone: 515.817.6093
Conference ID: 940 294 593

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 this proposed chapter is to comply with Iowa Code section 321.189A, which requires the Department to adopt rules to administer undercover driver’s licenses. An undercover driver’s license can be issued to peace officers for use in the line of duty when a fictitious identity is necessary.

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 these rules beyond what is required by the underlying statute.

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

Persons seeking to obtain an undercover driver’s 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.

• **Qualitative description of impact:**

Reorganizing, streamlining, and reducing redundancy in the chapter will create a positive impact by producing a more user-friendly version of the chapter that peace officers rely on for understanding how to obtain an undercover driver's 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 statute.

• **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 on the processes and requirements for obtaining an undercover driver's license.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain an undercover driver's license.

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 adopt rules to administer undercover driver's licenses.

• **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; undercover driver's licenses are only available to eligible peace officers.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 625 and adopt the following **new** chapter in lieu thereof:

CHAPTER 625
DRIVER'S LICENSES FOR UNDERCOVER LAW ENFORCEMENT OFFICERS

761—625.1(321) Application.

625.1(1) The application for an undercover driver's license must:

- a.* Be in writing.
- b.* Include a fictitious name as well as the applicant's true identity.
- c.* Include a statement of need.
- d.* Be signed by both the applicant and the head of the law enforcement agency employing the applicant.
- e.* Be submitted to the Motor Vehicle Division, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa 50021.

625.1(2) All applications will be investigated by the department. An investigation will include but not be limited to a 50-state check of the fictitious name and verification of the applicant's employment with the sponsoring law enforcement agency.

625.1(3) The department will determine if the undercover license is necessary.

625.1(4) The department may approve or deny the application, based on the results of the investigation and the determination of necessity.

625.1(5) An applicant employed by a state or local law enforcement agency that is located in a state other than Iowa is not eligible for an undercover driver's license issued under this chapter.

761—625.2(321) Issuance and cancellation.

625.2(1) To obtain an undercover license after the application is approved, the applicant is to appear at the Motor Vehicle Division offices, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa, with all applicable documents necessary for the issuance of an undercover license.

625.2(2) In accordance with the provisions in 6 CFR Section 37.11, effective as of January 1, 2024, the requirements under rule 761—601.5(321) are waived for the issuance of an undercover license.

625.2(3) An undercover license may not be renewed. The department may issue a subsequent new undercover license to an applicant who submits a new application and continues to meet the requirements of rule 761—625.1(321).

625.2(4) When the need for an undercover license no longer exists or if the licensee ceases to be employed by the sponsoring law enforcement agency, the licensee shall surrender the undercover license to the motor vehicle division for cancellation.

761—625.3(22,80G,321) Records.

625.3(1) Applications, forms and other records of the department that establish the true identity of an applicant or licensee under this chapter are confidential public records under Iowa Code sections 22.7, 80G.3 and 321.189A. The fictitious license information itself is not confidential, except as provided in Iowa Code section 321.11.

625.3(2) The open public records of the department will not contain any information or indicator that would distinguish any undercover license issued under this chapter from any other driver's license issued by the department.

625.3(3) An undercover license issued under this chapter will appear on the driver's license record system.

These rules are intended to implement Iowa Code sections 22.7, 80G.3, 321.189, 321.189A and 321.196 and 6 CFR Section 37.11 effective as of January 1, 2024.

ARC 8925C

ECONOMIC DEVELOPMENT AUTHORITY[261]**Notice of Intended Action****Proposing rulemaking related to variance procedures for tax increment financing housing projects and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to rescind Chapter 26, “Variance Procedures for Tax Increment Financing (TIF) Housing Projects,” 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 15.106A and 403.22.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 403.22.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 26 and to adopt a new chapter in lieu thereof. The chapter describes the procedures by which the Authority considers and approves variance requests for the low- and moderate-income set aside required for TIF-financed residential developments.

The new chapter eliminates language that is duplicative of statutory language and eliminates other unnecessary and inconsistent language. Additionally, the new chapter would provide updated criteria for evaluation of variance requests.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024. A public hearing was held on the following date(s):

- December 20, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10 to 10:15 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
March 13, 2025 1 to 1:15 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26

VARIANCE PROCEDURES FOR TAX INCREMENT FINANCING (TIF) HOUSING PROJECTS

261—26.1(403) Purpose. The authority is given the responsibility to rule on requests for variances in the percentage of low- and moderate-income benefit required in certain tax increment financing (TIF) districts for residential development as prescribed in the law. These rules establish procedures and criteria for variance requests.

261—26.2(403) Definitions.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Housing project*” means a project in an urban renewal area established solely upon findings under Iowa Code section 403.2(3) that is primarily intended to support housing activities. These may include but are not limited to the following: public streets and utilities, site preparation, housing rehabilitation, real property acquisition, new housing construction, and conversion of existing structures into housing units.

“*Low- or moderate-income families*” or “*LMI families*” means the same as “low or moderate income families” as defined in Iowa Code section 403.17.

“Municipality” means the same as defined in Iowa Code section 403.17.

261—26.3(403) Variance request procedure.

26.3(1) A municipality may request a variance at any time.

26.3(2) Requests for a variance shall be submitted on forms prescribed by the authority. The authority may request additional information from the municipality as part of the application review. Application information will be available on the authority’s website.

26.3(3) The authority may modify the request to maximize the level of benefit to low- or moderate-income families, while preserving the financial feasibility of the TIF-supported housing project.

26.3(4) The authority will notify municipalities of its decision in writing. If the request is approved, the authority will indicate the level of the variance and the conditions for compliance with the variance. If the request is denied, the authority will state its reasons for the denial.

261—26.4(403) Criteria for review. The authority will review the application on the following criteria:

1. Financial feasibility of the housing project with and without a variance of the low- and moderate-income benefit percentage.
 2. Percentage of low- or moderate-income families in the community at the time of application as determined by the latest United States Department of Housing and Urban Development, Section 8, income guidelines.
 3. Plan to utilize funds for housing activities benefitting low- or moderate-income families.
 4. Other factors that may impact the project’s need for a variance as determined by the authority.
- These rules are intended to implement Iowa Code section 403.22.

ARC 8928C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rulemaking related to rural housing needs assessment grant program
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to rescind Chapter 28, “Rural Housing Needs Assessment Grant Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2019 Iowa Acts, Senate File 608, and Executive Order 11.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 28 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Rural Housing Needs Assessment Grant program (program). The program supports community efforts to interpret hard data with supplemental information and to help communities implement changes to development codes, local ordinances, and housing incentives according to the community’s needs.

The updated chapter will be more concise throughout, including elimination of an unnecessary definition of “agreement.” Rule 261—28.4(88GA,SF608) will be updated for consistency with Iowa Code section 15.439, which requires that additional consideration is given to projects included in an Iowa Great Places agreement. The implementation sentence will be updated to include a reference to

Executive Order 11 (October 19, 2023), which restructured the Empower Rural Iowa initiative but maintained the Authority's ongoing role to provide staffing and administrative assistance to the initiative.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024. A public hearing was held on the following date(s):

- December 20, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10:15 to 10:30 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
March 13, 2025 1:15 to 1:30 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28
RURAL HOUSING NEEDS ASSESSMENT GRANT PROGRAM

261—28.1(88GA,SF608) Purpose. The purpose of the rural housing needs assessment grant program is to support community efforts to interpret hard data with supplemental information and to help communities implement changes to development codes, local ordinances, and housing incentives according to the community's needs.

261—28.2(88GA,SF608) Definitions. For purposes of this chapter unless the context otherwise requires:

“*Applicant*” means an Iowa community applying for financial assistance under the program.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Community*” means a county, an incorporated city, or a community designee.

“*Community designee*” means a legal entity established or designated by a county or incorporated city in an agreement pursuant to Iowa Code chapter 28E for the purposes of evaluating housing needs.

“*Director*” means the director of the authority.

“*Financial assistance*” means a grant made by the authority to an applicant approved for funding under the program.

“*Program*” means the rural housing needs assessment grant program established in this chapter.

261—28.3(88GA,SF608) Program description.

28.3(1) Amount, form, and timing of assistance. The amount of assistance awarded will be determined by the authority and will be based on the total amount of funds available to the authority for the program and the costs specified in the application. The authority will establish a maximum grant award per application and a minimum grant award per application for each fiscal year in which funding is available. The authority will provide financial assistance in the form of a grant. Funds will be disbursed on a reimbursement basis for expenses incurred by the applicant after approval of an award by the director.

28.3(2) Application.

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority.

b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted during the established application period, or periods, as identified by the authority on its website.

c. Completeness. An application will not be considered submitted for review until the application is completed and all required supporting documentation and information are provided to the authority.

28.3(3) Use of funds.

a. An applicant shall use funds only for reimbursement of the costs directly related to a project. The authority may require documentation or other information establishing the actual costs incurred for a project.

b. For purposes of this subrule, “costs directly related” does not include any expenses specified as ineligible in the agreement entered pursuant to rule 261—28.5(88GA,SF608).

261—28.4(88GA,SF608) Program eligibility, application scoring, and funding decisions.

28.4(1) *Program eligibility.* An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

- a.* The applicant must be an Iowa community as defined in rule 261—28.2(88GA,SF608).
- b.* An applicant that is an incorporated city must have a population of 20,000 or less and shall not be contiguous to a city with a population of 40,000 or greater. An applicant that is a county shall be one of the 88 least populous counties in the state. An applicant that is a community designee shall have entered an agreement pursuant to Iowa Code chapter 28E with an incorporated city or county meeting the population criteria in this paragraph.
- c.* An eligible applicant will be allowed to submit only one application per application period.
- d.* The applicant must demonstrate the capacity for administering a grant.
- e.* The applicant must demonstrate the feasibility of the project's proposed scope and timeline with the funds requested.
- f.* The applicant must identify and describe other sources of funding for the proposed assessment and related activities.
- g.* The applicant must identify any partner organizations that will be utilized in interpreting and implementing the data collected through the assessment.
- h.* The applicant must provide a cash match of at least 50 cents for every dollar awarded as a grant under this program.

28.4(2) *Application scoring criteria.* All completed applications will be reviewed and scored. Each application will be scored using criteria set forth by the authority, which may include the following:

- a.* Applicant readiness and partnerships. The application should demonstrate that the applicant is actively addressing housing needs and has identified diverse partners.
- b.* Project goals and timeline. The application should demonstrate clearly defined, measurable goals and a timeline for execution of the project.
- c.* Project budget and financing. The application should include a complete budget that provides clear justification for all costs. The application should also demonstrate secured financing and that the cash match requirement has been met.
- d.* Additional points. Extra consideration is provided to applications that have projects identified in an Iowa great places agreement as well as those located in a community with a population of 10,000 or less.

28.4(3) *Funding decisions.* Funding decisions will be made using the following process:

- a. Staff review.* Each application will be reviewed by staff for eligibility and completeness. Eligible and complete applications will be sent to a grant committee.
- b. Grant committee review and recommendation.* Following staff review, a grant committee will review and score applications using the criteria in subrule 28.4(2) and will make funding recommendations. The committee may utilize an outside technical panel if the committee determines additional expertise is necessary to review and score the application. The application and score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.
- c. Director's decision.* The director will make the final funding decision on each application, taking into consideration the amount of available funding and the grant committee's recommendation. The director may approve, deny, or defer funding for any application.
- d. Notification.* Each applicant will be notified in writing of the funding decision within 15 days of the director's decision.

261—28.5(88GA,SF608) Agreement and reports.

28.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

28.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

28.5(3) A recipient under the program shall submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

These rules are intended to implement 2019 Iowa Acts, Senate File 608, and Executive Order 11 (October 19, 2023).

ARC 8927C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to rural innovation grant program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 29, "Rural Innovation Grant Program," Iowa Administrative Code and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2019 Iowa Acts, Senate File 608, and Executive Order 11.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 29 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Rural Innovation Grant program. The program supports creative, nontraditional ideas that focus on current issues and challenges faced by rural communities associated with the themes of community investment, growth, and connection.

The updated chapter will be more concise throughout, including elimination of an unnecessary definition of "agreement." Additionally, the definition of "applicant" will be updated to specify that a business applicant must have a physical location in Iowa. Rule 261—29.3(88GA,SF608) will be updated to specify that an applicant's proposed project, in addition to the applicant itself, must serve a city that has a population of 20,000 or less and that is not contiguous to a city with a population of 40,000 or greater.

Rule 261—29.4(88GA,SF608) will be updated for consistency with Iowa Code section 15.439, which requires that additional consideration is given to projects included in an Iowa Great Places agreement. The updated rule will specify that additional consideration will be given to projects in communities with a population of less than 10,000, consistent with equivalent scoring criteria for the Rural Housing Needs Assessment Grant program in 261—paragraph 28.4(2)"d."

The implementation sentence will be updated to include a reference to Executive Order 11 (October 19, 2023), which restructured the Empower Rural Iowa initiative but maintained the Authority's ongoing role to provide staffing and administrative assistance to the initiative.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024. A public hearing was held on the following date(s):

- December 20, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10:15 to 10:30 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
March 13, 2025 1:15 to 1:30 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29
RURAL INNOVATION GRANT PROGRAM

261—29.1(88GA,SF608) Purpose. The purpose of the rural innovation grant program is to support creative, nontraditional ideas that focus on current issues and challenges faced by rural communities.

261—29.2(88GA,SF608) Definitions. For purposes of this chapter unless the context otherwise requires:

“*Applicant*” means an Iowa business, a college, a university, a city, a county, a council of governments organization established by Iowa Code chapter 28H, a K-12 educational institution, or a private nonprofit agency or a foundation applying for financial assistance under the program. A business will be considered an Iowa business if the business has a physical location in Iowa and is incorporated in the state of Iowa or authorized to do business in the state of Iowa.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Director*” means the director of the authority.

“*Financial assistance*” means a grant made by the authority to an applicant approved for funding under the program.

“*Program*” means the rural innovation grant program established in this chapter.

“*Project*” means a program or activity undertaken in and for the benefit of a community in Iowa with a population of 20,000 or less and not contiguous to a city with a population of 40,000 or greater.

261—29.3(88GA,SF608) Program description.

29.3(1) Amount, form, and timing of assistance. The amount of assistance awarded will be determined by the authority based on the total amount of funds available to the authority for the program and based on the project details. The authority will establish a maximum grant award per application and a minimum grant award per application for each fiscal year in which funding is available. The authority will provide financial assistance in the form of a grant. Funds will be disbursed on a reimbursement basis for expenses incurred by the applicant after approval of an award by the director.

29.3(2) Application.

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority.

b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted during the established application period, or periods, as identified by the authority on its website.

c. Frequency of application. An eligible applicant may only be named as the primary entity on one application per application period. However, an applicant who has applied as the primary entity for an application may also be named as a partner on additional applications.

d. Completeness. An application will not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

29.3(3) Use of funds.

a. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for a project.

b. For purposes of this subrule, “costs directly related” does not include ineligible expenses, such as international travel, domestic travel outside the state of Iowa, insurance, training or professional development courses, and any other expenses specified as ineligible in the agreement entered pursuant to rule 261—29.5(88GA,SF608).

261—29.4(88GA,SF608) Program eligibility, application scoring, and funding decisions.

29.4(1) Program eligibility. An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

- a. The applicant must meet the definition of “applicant” in rule 261—29.2(88GA,SF608).
- b. If the applicant is not a local government entity, the applicant must demonstrate support from the local government entity as evidenced by a letter of support.
- c. The applicant and its proposed project must serve a city that has a population of 20,000 or less and that is not contiguous to a city with a population of 40,000 or greater.
- d. The applicant must demonstrate the capacity for administering a grant.
- e. The applicant must provide a cash match of at least 50 cents for every dollar awarded as a grant under this program.
- f. The applicant must demonstrate that the project does not consist of ongoing expenses for existing projects or programs.

29.4(2) *Application scoring criteria.* All completed applications will be reviewed and scored. Each application will be scored using criteria set forth by the authority, which may include the following:

- a. Alignment with program purpose. The application should demonstrate that the project aligns with the program purpose by developing a nontraditional, concrete solution to increase rural community vibrancy.
- b. Innovation. The application should demonstrate that the project will address rural challenges through exceptional and creative solutions.
- c. Replicability. The application should demonstrate a clear opportunity for successful replication in rural communities across the state.
- d. Roles defined. The application should identify and describe the roles of all partners involved in the project.
- e. Project goals and timeline. The application should demonstrate clearly defined, measurable goals and a timeline for execution of the project.
- f. Project budget and financing. The application should include a complete budget that provides clear justification for all costs. The application should also demonstrate secured financing and that the cash match requirement has been met.
- g. Additional points. Extra consideration is provided to projects identified in an Iowa great places agreement as well as those located in a community with a population of 10,000 or less.

29.4(3) *Funding decisions.* Funding decisions will be made using the following process:

- a. *Staff review.* Each application will be reviewed by staff for eligibility and completeness. Eligible and complete applications will be sent to a grant committee.
- b. *Grant committee review and recommendation.* Following staff review, a grant committee will review and score applications using the criteria in subrule 29.4(2) and will make funding recommendations. The committee may utilize an outside technical panel if the committee determines additional expertise is necessary to review and score the application. The application and score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.
- c. *Director’s decision.* The director will make the final funding decision on each application, taking into consideration the amount of available funding and the grant committee’s recommendation. The director may approve, deny, or defer funding for any application.
- d. *Notification.* Each applicant will be notified in writing of the funding decision within 15 days of the director’s decision.

261—29.5(88GA,SF608) Agreement and reports.

29.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

29.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

29.5(3) A recipient under the program shall submit information reasonably required by the authority to make reports to the authority’s board, the governor’s office, or the general assembly.

These rules are intended to implement 2019 Iowa Acts, Senate File 608, and Executive Order 11 (October 19, 2023).

ARC 8929C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to empower rural Iowa program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 30, “Empower Rural Iowa Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2021 Iowa Acts, House File 871; 2022 Iowa Acts, House File 2564; and 2023 Iowa Acts, Senate File 559.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 30 and to adopt a new chapter in lieu thereof. The chapter describes the eligible uses of funds appropriated to the Empower Rural Iowa program by 2021 Iowa Acts, House File 871; 2022 Iowa Acts, House File 2564; and 2023 Iowa Acts, Senate File 559. The updated chapter will remove references to task forces associated with the Empower Rural Iowa initiative that were consolidated by Executive Order 11 (October 19, 2023). The implementation sentence will be updated to include 2023 Iowa Acts, Senate File 559; 2024 Iowa Acts, Senate File 2432; and Executive Order 11.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024. A public hearing was held on the following date(s):

- December 20, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond the legislation it is intended to implement.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Lisa Connell
 Iowa Economic Development Authority
 1963 Bell Avenue, Suite 200
 Des Moines, Iowa 50315
 Phone: 515.348.6163
 Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10:15 to 10:30 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
March 13, 2025 1:15 to 1:30 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30 EMPOWER RURAL IOWA PROGRAM

261—30.1(90GA,SF559,SF2432) Purpose. The empower rural Iowa initiative was created by Executive Order 3 (July 18, 2018), which directed the authority to provide staffing and administrative assistance for the initiative and its associated task forces. Executive Order 11 (October 19, 2023) amended and superseded Executive Order 3 (July 18, 2018) and restructured the initiative.

261—30.2(90GA,SF559,SF2432) Definitions. As used in this chapter unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Director*” means the director of the authority.

“*Empower rural Iowa initiative*” or “*initiative*” means the initiative created by Executive Order 3 (July 18, 2018) and Executive Order 11 (October 19, 2023).

“*Rural community*” means either an Iowa city with a population of 20,000 or less and that is not contiguous to a city with a population of 40,000 or greater, or an Iowa county that is one of the 88 least populous counties in the state.

261—30.3(90GA,SF559,SF2432) Eligible uses of funds.

30.3(1) Funds appropriated to the authority for the empower rural Iowa program shall be used to address the challenges and opportunities of rural communities. Uses of funds shall be approved by the director.

30.3(2) Eligible uses of funds include the following:

- a. The rural housing needs assessment grant program administered pursuant to 261—Chapter 28;
- b. The rural innovation grant program administered pursuant to 261—Chapter 29;
- c. Support for entrepreneurship and cooperative business models for businesses in rural communities;
- d. Leadership development training for representatives of rural communities;
- e. Education and training opportunities relating to succession planning for businesses in rural communities;
- f. Promotion of e-commerce opportunities for businesses in rural communities; and
- g. Implementation of additional recommendations identified by the empower rural Iowa task force.

These rules are intended to implement 2023 Iowa Acts, Senate File 559; 2024 Iowa Acts, Senate File 2432; and Executive Order 11 (October 19, 2023).

ARC 8926C

ECONOMIC DEVELOPMENT AUTHORITY[261]**Notice of Intended Action****Proposing rulemaking related to regional sports authority districts
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to rescind Chapter 38, “Regional Sports Authority Districts,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15E.321.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 38 and to adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to regional sports authority districts (districts) certified and funded pursuant to Iowa Code section 15E.321. Districts actively promote youth sports, high school athletic activities, the Special Olympics, and other nonprofessional sporting events. The new chapter is updated to be clearer and more concise throughout, including removing language that is duplicative of statutory language. Specific point values assigned to scoring criteria have been eliminated. A description of how the Authority may utilize additional application rounds has been eliminated.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024. A public hearing was held on the following date(s):

- December 20, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10:30 to 10:45 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
March 13, 2025 1:30 to 1:45 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 38 and adopt the following **new** chapter in lieu thereof:

CHAPTER 38
REGIONAL SPORTS AUTHORITY DISTRICTS

261—38.1(15E) Definitions. For the purposes of this chapter, unless the context otherwise requires, the following definitions apply:

“Actively promote” or *“active promotion”* means to regularly undertake specific, identifiable actions that encourage greater participation in an activity or that make an activity more visible and accessible. Active promotion includes planning, organizing, advertising, marketing, managing, hosting, and sponsoring a nonprofessional sporting event.

“Applicant” means a CVB that has submitted an application to the authority for certification of a proposed district. “Applicant” may include more than one CVB and one or more communities located within the proposed district.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Board” means a regional sports authority district governing board consisting of members of the local community or communities served by an applicant.

“Convention and visitors bureau” or *“CVB”* means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities, including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“District” means the same as defined in Iowa Code section 15E.321.

“Nonprofessional” means an activity typically engaged in by amateurs and primarily for pleasure rather than for pecuniary benefit or other reasons indicating a professional interest in the activity.

“Program” means the regional sports authority district program authorized under Iowa Code section 15E.321 and the rules in this chapter.

“Sporting event” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body or by a local organization engaged in the development and active promotion of the athletic activity. A sporting event typically includes the placing of competitors into a fixed order of finish, depending on their respective athletic performance within the rules provided for that activity. For the purposes of this chapter, “sporting event” includes but is not limited to youth sports, high school athletic activities, the Special Olympics, and other nonprofessional athletic activities.

261—38.2(15E) Program eligibility and application.

38.2(1) Eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant shall propose to operate a regional sports authority district that is governed by a board that meets the requirements of Iowa Code section 15E.321(5).

b. The applicant shall propose a program of activities designed to foster the active promotion of one or more nonprofessional sporting events in the district during the fiscal year for which the applicant is applying for funding. Such program shall be overseen by the board as required by paragraph 38.2(1)“a.”

c. The applicant shall demonstrate an amount of local match equal to at least 50 percent of the amount of grant funds to be received by the applicant under the program. The local match shall be in the form of cash.

d. The applicant shall submit a completed application including all of the information described in subrule 38.2(2) by the deadline established by the authority on its website.

38.2(2) Application. When submitting an application for grant funds under the program, an applicant shall include all of the following information:

a. The applicant’s name, mailing address, email address, telephone number, contact person, and federal employer identification number.

b. A detailed description of the nonprofessional sporting events the applicant intends to actively promote using funds received under the program.

- c. The date each proposed nonprofessional sporting event will be held and the location at which the event will be held.
- d. Written documentation establishing the amount and source of the required local cash match.
- e. Names and contact information of the board and an indication as to which of the board members are city council members as required by Iowa Code section 15E.321(5).
- f. Detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the nonprofessional sporting events described in the application. Such information shall include the estimated number of participants and the estimated number of spectators expected to attend the event. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events.
- g. Any additional information requested by the authority.

261—38.3(15E) Application scoring and certification of districts.

38.3(1) *Scoring process and criteria.* Applications that meet the requirements in rule 261—38.2(15E) will be reviewed and scored by authority staff. The authority may also engage outside reviewers with relevant expertise. The higher an application's numerical score, the more likely it is that the applicant will receive funding under the program. The authority will certify districts in a manner designed to prioritize those events that provide the greatest total benefit to the state as a whole. The criteria used to score the applications are as follows:

- a. **Economic impact:** The authority will consider the amount of economic impact represented by the proposed nonprofessional sporting events and will view favorably events that have a greater economic impact. Economic impact will be determined by estimating the number of hotel room nights generated by each proposed nonprofessional sporting event and multiplying the number of estimated hotel room nights by the average daily room rate for Iowa hotels. The average daily room rate will be provided by the authority based on information obtained from a hotel market data service. Intentionally inflated estimates of attendance or a history of providing inaccurate estimates will negatively affect the scoring of an application.
- b. **Leveraged funds ratio:** The authority will consider the proportion of state funds to total funds in the application and will view favorably a greater rate of financial participation from entities other than the state of Iowa.
- c. **Novelty and quality:** The authority will consider the novelty and quality of an event and will view favorably nonprofessional sporting events that are new to Iowa or that have been recently improved, enhanced, or enlarged.
- d. **Event size and scope:** The authority will consider the size of an event and will view favorably a project with a larger total budget.
- e. **Need:** The authority will consider the financial need of an applicant and will recognize the importance of funding events that would not take place without assistance under the program. The authority will also recognize the importance of funding nonprofessional sporting events that have never before been funded under the program or under another state program.
- f. **Geographic diversity:** The authority will consider the geographic diversity represented by the pool of applicants.

38.3(2) *Certification process.*

- a. Applications and scores will be referred to the director with a recommendation as to whether to approve certification and funding. The director will make the final decision on each application, taking into consideration the amount of available funding, scores, and recommendations. The director may approve, deny, or defer any application.
- b. The authority will certify not more than ten districts each fiscal year in which funding is available for the program. The authority may certify fewer than ten districts in a fiscal year if fewer than ten completed applications are timely received or if fewer than ten completed applications meet the minimum threshold for certification established for that fiscal year. The authority will award grant funds to each of the certified districts in equal amounts. A district certified in one fiscal year retains its

certification only for the duration of that fiscal year and must reapply for certification in each subsequent fiscal year.

38.3(3) *Reallocation of award amounts.* If a certified district fails to hold a nonprofessional sporting event described in the application, then that district may request a contract amendment pursuant to subrule 38.4(3) to reallocate the proposed expenses allocated for that event to another event included on the application. If there are no other events included on the application to which the proposed expenses may be allocated or the failure to hold a nonprofessional sporting event materially changes the application's overall quality in relation to other applications, then the district shall forfeit the amount of proposed expenses to be reimbursed and the authority may award that amount to other applicants or districts.

261—38.4(15E) Contract administration.

38.4(1) *Notice of approval.* The authority will notify successful applicants in writing of approved requests for certification. Such a notification may include the terms or conditions under which approval is granted.

38.4(2) *Contract required.* Each successful applicant shall enter into a contract with the authority. The contract will describe the nonprofessional sporting events that the applicant will actively promote as part of the certified district. The contract will also include the terms and conditions under which the grant funds will be disbursed and under which the grant funds must be repaid or penalties incurred in the event the district does not fulfill all obligations under the contract.

38.4(3) *Contract amendments.* All requests by a district for an amendment to the contract will require the approval of the director of the authority. The director will review each such request and approve or deny it. If a request is approved, the district and the authority will execute a written amendment to the contract. Only a written amendment duly executed by both parties to the contract will be valid and binding.

38.4(4) *Reports required.* Each certified district shall submit a written report to the authority within 90 days of the end of the performance period specified in the contract.

38.4(5) *Recordkeeping.* Each certified district shall maintain all records necessary for the verification and validation of the proper use of grant funds under the contract and shall submit such records to the authority upon request.

261—38.5(15E) Expenses, records, and reimbursements.

38.5(1) *Eligible expenses.* Only expenditures directly related to the active promotion of a nonprofessional sporting event will be reimbursed under the program. Items that will be considered eligible expenses include but are not limited to bid fees, rights fees, sponsorships, payments to vendors, advertising, marketing, venue rental, equipment rental, promotional materials, production costs, and fees and costs for officiants.

38.5(2) *Ineligible expenses.* Expenses that are not directly related to the active promotion of a nonprofessional sporting event are not eligible for reimbursement. Ineligible expenses include but are not limited to travel costs of applicant staff, solicitation efforts, lobbying fees, meals or dining on occasions other than the dates of the nonprofessional sporting events described in the application, items that are purchased for resale, prizes given to participants, and alcoholic beverages.

38.5(3) *Required records and reimbursements.* A district shall submit any records requested by the authority as documentation of the expenditures incurred for purposes of the grant funds awarded under the program. Such records may include invoices, original itemized receipts, check copies, or other proof of payment. The authority will only accept records submitted in the name of the district that has executed a contract. The authority will not reimburse any expenses included on a receipt that includes both eligible expenses and ineligible expenses.

38.5(4) *Repayments of certain funds.* If the authority reimburses a district for the cost of a refundable bid fee and the applicant is unsuccessful in the effort to win the right to hold that event, then the district shall return the amount of such reimbursement to the authority.

38.5(5) *Reallocation of funds.* If, at the time of a district’s final reporting of expenses, the district cannot adequately document eligible expenses or documents an amount that is less than the awarded amount, the authority may award additional funds to other certified districts. If the authority awards additional funds to already certified districts, such districts shall submit documentation establishing how such funds will be expended and the authority will execute contract amendments providing for the expenditure of the additional funds.

These rules are intended to implement Iowa Code section 15E.321.

ARC 8930C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to Iowa tourism grant program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 42, “Iowa Tourism Grant Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15E.321.

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Authority proposes to rescind Chapter 42 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Iowa Tourism Grant Program. The program supports tourism-related projects. The new chapter will be updated to be clearer and more concise throughout. Additionally, the new chapter will specify that records be maintained by grantees for three years following grant closeout.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024. A public hearing was held on the following date(s):

- December 20, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10:45 to 11 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
March 13, 2025 1:45 to 2 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42
IOWA TOURISM GRANT PROGRAM

261—42.1(15) Definitions. For the purposes of this chapter, unless the context otherwise requires, the following definitions apply:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Collaborative application*” means an application in which multiple partners are providing monetary support for the project.

“*Head applicant*” means the applicant on a collaborative application that is both the recipient of the funds and the administrator of the project.

“*Marketing*” means planning for or implementing efforts to publicize a community, event or destination using a range of strategies, tools and tactics.

“Meetings and events” means regional or national tourism-related meetings and conventions or local festivals or similar tourism events that positively impact local and state economies.

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

“Tourism” means attracting people from beyond a 50-mile radius or people who spend the night away from home to visit a site or event.

261—42.2(15) Program description.

42.2(1) The authority will accept competitive applications for tourism-related projects in each fiscal year in which funding is available. The authority will award grants to projects based on the criteria described in subrule 42.4(1) and in a manner designed to prioritize those projects that provide the greatest benefit to state and local economies.

42.2(2) The authority will establish a maximum grant award per application and a minimum grant award per application for each fiscal year in which funding is available.

42.2(3) The authority will make awards based on the total amount of funding available each fiscal year. Funds will be awarded for expenditures that are directly related to the implementation of an eligible project.

42.2(4) An applicant may submit one application each fiscal year. If the application submitted by the applicant is a collaborative application, it will be counted as the head applicant’s application for the fiscal year.

42.2(5) An applicant that has received an Iowa tourism grant award in the prior fiscal year cannot submit an application for a substantially similar project in the following fiscal year. If an applicant does submit an application for a substantially similar project in the following fiscal year, the project will be deemed ineligible and the application will not be reviewed or scored. Whether a project is substantially similar will be determined by the authority.

261—42.3(15) Program eligibility and application requirements.

42.3(1) Eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant must be a tourism-related entity based in the state of Iowa, including a nonprofit or for-profit organization, city, county, or regional government or planning entity.

b. The applicant must demonstrate an amount of local match equal to at least 20 percent of the total project costs to be incurred by the applicant. The local match shall be in the form of cash. Other state sources of funds shall not qualify as local match. The local match must be spent on eligible expenses as described in rule 261—42.6(15).

c. The applicant must submit a completed application, including all of the information described in subrule 42.3(2), by the deadline established by the authority on its website.

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

a. The applicant’s name, mailing address, email address, telephone number, contact person, and federal employer identification number. If the application is a collaborative application, the head applicant shall identify itself and provide the names of all partner applicants.

b. A detailed description of the project.

c. Written documentation of the project costs, including but not limited to advertising rate sheets, bids, quotes, and invoices.

d. Written documentation establishing the amount and source of the required local cash match.

e. Detailed information sufficient to enable the authority to accurately assess the impact and quality of the project.

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

42.4(1) Scoring process and criteria. An application meeting the requirements in rule 261—42.3(15) will be reviewed and scored by authority staff. The authority may also engage outside

reviewers with relevant expertise. The higher an application's numerical score, the more likely it is to receive funding under the program. The criteria used to score the applications are as follows:

- a. **Project description:** The applicant will explain the project, the timeline for its creation and implementation, and how state funds will support the project. The authority will view favorably information that clearly articulates the project, sets forth a reasonable timeline for the project's creation and implementation, and fully describes how state funds will be used to support the project.
- b. **Economic impact and ability to promote tourism industry growth:** The authority will consider how the project supports the mission of the Iowa tourism office and is part of the applicant's broader marketing strategy to increase the economic impact of tourism locally and in the state of Iowa.
- c. **Sustainability:** The authority will view favorably applications that illustrate the capacity to implement and sustain the project upon completion.
- d. **Need:** The authority will consider the financial need of an applicant.
- e. **Innovation:** The authority will consider the innovative quality of an event or marketing initiative and how the project will expand upon existing marketing tactics or resources.
- f. **Budget:** The authority will view favorably budgets that are well-developed and relevant to the project and that provide documentation of planned project expenses during the grant period.
- g. **Collaboration:** The authority will view favorably applications that either represent a collaboration of multiple entities or show the benefit of the project to multiple entities within the tourism industry, or both.

42.4(2) *Approval process.* The authority will assign scores based on the criteria described in rules 261—42.3(15) and 261—42.4(15) to determine successful applicants. The authority may recommend partial funding of any or all applicants.

261—42.5(15) Contract administration.

42.5(1) *Notice of approval.* The authority will notify successful applicants in writing of an approved request for funding. Such notification may include the terms and conditions under which approval is granted.

42.5(2) *Contract required.* Each successful applicant that accepts the recommended award amount shall enter into a contract with the authority. The contract will describe the project that the applicant will institute as described in the application and will include the terms and conditions under which the grant funds will be disbursed. The contract will also include the terms and conditions under which grant funds must be repaid or penalties incurred in the event the grantee does not fulfill all obligations under the contract.

42.5(3) *Contract amendments.* All requests by a grantee for an amendment to the contract will require the approval of the director of the authority. The director will review each such request and approve or deny it. If a request is approved, the grantee and the director will execute a written amendment to the contract. Only a written amendment duly executed by both parties to the contract will be valid and binding.

42.5(4) *Reports required.* Each grantee shall submit a written report to the authority within 60 days of the end of the contract period.

42.5(5) *Recordkeeping.* Each grantee shall maintain all records necessary for the verification and validation of the proper use of grant funds under the contract for three years following grant agreement closeout and shall submit such records to the authority upon request.

261—42.6(15) Expenses, records, and reimbursements.

42.6(1) *General.* Each grantee shall at all times incur expenses only as described in this chapter or in a contract executed hereunder. The authority may deny payment of grant funds for any expenditure not directly related to the implementation of a tourism-related marketing initiative, meeting or event.

42.6(2) *Eligible expenses.* Only expenditures directly related to the implementation of a tourism-related marketing initiative, meeting or event and approved by the authority at the time of application are eligible expenses under the program. Examples of eligible expenses include the following:

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

b. The costs associated with acquiring a regional or national tourism-related meeting, including but not limited to bid fees, rights fees, sponsorships, payments to vendors, venue rental, and equipment rental.

c. The costs associated with executing a local event or festival, including but not limited to payments to vendors, payments to speakers or entertainers, venue rental, and equipment rental for new events or existing events in Iowa in order to augment the event.

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

42.6(4) *Required records.* A grantee shall submit any records requested by the authority as documentation of the expenditures incurred for implementation of the project. Such records may include invoices, original itemized receipts, check copies, or other proof of payment.

42.6(5) *Repayments of certain funds.* If the authority approves grant funds for the cost of a refundable bid fee and the grantee is unsuccessful in the effort to win the right to hold that event, then the grantee shall return the amount of funds paid for such bid fee to the authority.

42.6(6) *Reallocation of funds.* If, at the time of a grantee's final reporting of expenses, the grantee cannot adequately document eligible expenses or documents an amount that is less than the awarded amount, the authority may reduce the grant amount or require repayment of grant funds received.

These rules are intended to implement Iowa Code section 15.108.

ARC 8905C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to dependent adult abuse and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 52, "Dependent Adult Abuse in Facilities and 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 235E.2 and 235E.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 235E.

Purpose and Summary

This proposed rulemaking repromulgates Chapter 52 and implements Iowa Code chapter 235E, in accordance with the goals and directives of Executive Order 10. Iowa Code section 235E.2 directs the Department to adopt rules that require facilities and programs to separate an alleged perpetrator of dependent adult abuse from a victim following an allegation of perpetration of dependent adult abuse and prior to the completion of an investigation of the allegation. Iowa Code section 235.5 provides that

the Department may adopt rules pursuant to Iowa Code chapter 17A to administer Iowa Code chapter 235E.

This rulemaking implements the aforementioned Iowa Code sections by implementing the statute that governs dependent adult abuse in facilities and programs and by ensuring an efficient process with effective oversight and regulation, consistent with applicable federal regulations.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024. A public hearing was held on the following date(s):

- January 14, 2025

The Department received no public comments on this rulemaking.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on March 26, 2025. Comments should be directed to:

Jamie West
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.981.8206
Email: jamie.west@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 25, 2025	6200 Park Avenue, Suite 100
10 to 10:30 a.m.	Des Moines, Iowa
March 26, 2025	6200 Park Avenue, Suite 100
10 to 10:30 a.m.	Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the 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 481—Chapter 52 and adopt the following **new** chapter in lieu thereof:

CHAPTER 52
DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

481—52.1(235E) Definitions. The definitions set forth in Iowa Code section 235E.1 are incorporated herein by reference. For purposes of this chapter, unless the context otherwise requires, the following definitions apply:

“Caretaker” means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. For the purpose of an allegation of exploitation, if the caretaker-dependent adult relationship started when a staff member was employed in the facility, the staff member may be considered a caretaker after employment is terminated.

“Dependent adult abuse” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual exploitation, exploitation, neglect, or personal degradation.

“Gross negligence” means an act or omission that signifies more than ordinary inadvertence or inattention, but less than conscious indifference to consequences; and, in other words, means an extreme departure from the ordinary standard of care.

“Immediately,” for purposes of mandatory reporters' reporting of suspected dependent adult abuse, means within 24 hours.

“Inspector” means a surveyor or investigator with the department or any department designee.

“Misappropriates” means taking unfair advantage of or wrongfully or dishonestly exercising control over property.

“Physical injury” means a physical injury, or injury that is at a variance with the history given of the injury, which involves a breach of skill or care or learning ordinarily exercised by a caretaker in similar circumstances. “Physical injury” includes damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue that results in the death of the person who has sustained the damage.

“Registry” means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.

“Report” means a verbal or written statement, made to the department, that alleges that dependent adult abuse has occurred.

“Resident” means a resident of a health care facility as defined in Iowa Code chapter 135C, a patient in a hospital as defined in Iowa Code chapter 135B, a tenant of an assisted living program as defined in Iowa Code chapter 231C, a tenant in an elder group home as defined in Iowa Code chapter 231B, or a participant in an adult day services program as defined in Iowa Code chapter 231D.

“Sexual exploitation” means any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. “Sexual exploitation” includes but is not limited to:

1. Kissing;
2. Touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals;
3. A sex act as defined in Iowa Code section 702.17;
4. The transmission, display or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment, care, monitoring, assessment or diagnosis or as part of an ongoing evaluation or investigation.

“Sexual exploitation” does not include touching that is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

“*Sexual offense*” means the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.

“*Staff member*” means an individual who provides direct or indirect treatment or services to residents in a facility or program. Specifically included in the definition of “staff member” is an employee, health care employment agency worker, or other independent contractor who otherwise meets the definition. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded from the definition of “staff member” are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.

“*Unreasonable confinement*” means confinement that includes but is not limited to the use of restraints, either physical or chemical, for the convenience of staff. “Unreasonable confinement” does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraint or as authorized by a physician or physician extender.

“*Unreasonable punishment*” means a willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

“*Willful misconduct*” means an intentional act of unreasonable character committed with disregard for a known or obvious risk that is so great as to make it highly probable that harm will follow.

481—52.2(235E) Reporting.

52.2(1) The following persons shall report suspected dependent adult abuse in accordance with subrule 52.2(2):

a. A staff member. Specifically excluded from the definition of “staff member” only for purposes of the requirements set forth in this subrule are individuals who have no contact or de minimis contact with residents in a facility or program.

b. Entities as set forth in 481—Chapter 55.

52.2(2) Reporting procedures include the following:

a. If a staff member or employee is required to make a report pursuant to this rule, the staff member or employee shall immediately notify the person in charge or the person’s designated agent, who shall then notify the department within 24 hours of such notification or the next business day.

b. If the person in charge is the alleged perpetrator of dependent adult abuse, the staff member shall directly report the abuse to the department within 24 hours or the next business day.

c. Nothing prevents any person from notifying the department directly of suspected abuse.

d. The employer or supervisor of a person who is required to or may make a report pursuant to this rule shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

e. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person should also immediately make an oral report to an appropriate law enforcement agency.

f. A report of suspected dependent adult abuse should contain as much of the following information as possible:

- (1) The date and time of the incident;
- (2) The name, date of birth and diagnoses of the dependent adult;

(3) Whether the dependent adult sustained an injury and, if yes, whether photographs of the injury were taken;

(4) The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse allegations;

(5) A list of the staff members working at the time of the incident, including each staff member's full name, title, date of birth, address and telephone number;

(6) The full name, title, date of birth, social security number, address, and telephone number of the alleged perpetrator of dependent adult abuse;

(7) Other information that might be helpful in establishing the cause of the abuse, establishing the identity of the person or persons responsible for the abuse, or providing assistance to the dependent adult; and

(8) The name, address, and telephone number of the person making the report.

52.2(3) A report will be accepted whether or not it contains all of the information requested. When the report is made to any agency other than the department, that agency will promptly refer the report to the department.

52.2(4) A person required to report abuse who knowingly and willfully fails to do so within 24 hours may be subject to criminal penalties and civil liability as provided for by statute.

52.2(5) Interference with a person required to report.

a. It is unlawful for any person or employer to discharge, suspend, or otherwise discipline a person for any of the following:

(1) Reporting suspected dependent adult abuse;

(2) Cooperating with or assisting the department in evaluating a report or investigating a case of dependent adult abuse; or

(3) Participating in judicial proceedings relating to dependent adult abuse.

b. A person in violation of this subrule may be guilty of a simple misdemeanor.

481—52.3(235E) Reports and central registry.

52.3(1) *Receipt and evaluation of reports.* The department receives and evaluates reports of dependent adult abuse in facilities and programs. Upon receipt of a report, the department will conduct an intake sufficient to determine whether the allegation constitutes dependent adult abuse.

52.3(2) *Central registry.* The department will inform the department of health and human services of such evaluations and dispositions for inclusion in the central registry for dependent adult abuse information pursuant to Iowa Code section 235B.5.

52.3(3) *Reports to and from the department of health and human services.* The department will transfer any reports received of dependent adult abuse in the community to the department of health and human services.

52.3(4) *Reports that are minor, isolated, and unlikely to reoccur.*

a. First instance. A report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of health and human services for a five-year period, shall not be included in the central registry, and shall not be considered founded dependent adult abuse.

b. Subsequent instance(s). A subsequent report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

c. Retention. All initial and subsequent reports are collected and maintained by the department of health and human services until a five-year period has expired, so long as no additional reports have been filed.

481—52.4(235E) Separation mandatory. Upon receipt of a report of alleged dependent adult abuse in a facility or program, the facility or program shall separate the victim and the alleged perpetrator of dependent adult abuse immediately and maintain that separation until the department's abuse investigation is completed and the abuse determination is made.

NOTE: Facilities that participate in the federal Medicare or Medicaid program may be subject to additional federal requirements regarding separation.

481—52.5(235E) Interviews, examination of evidence, and investigation.

52.5(1) *Entering and examination of evidence.* An inspector of the department may enter any facility or program without a warrant and may examine all records and items pertaining to residents, employees, former employees, and the alleged perpetrator of dependent adult abuse and any other records and items necessary to ensure the integrity of the investigation unless the record or item is protected by some other legal privilege.

52.5(2) *Interviews.*

a. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who may have knowledge about the alleged dependent adult abuse.

b. An alleged perpetrator of dependent adult abuse may request to have an attorney present at the alleged perpetrator's own expense at any time during the interview, but the request may not unreasonably delay the investigation. An employee organization representative or union representative may observe an investigative interview conducted by the department of an alleged perpetrator of dependent adult abuse if all of the conditions set forth in Iowa Code section 235E.2(13) "a" are met.

The purpose of the interview is a civil administrative dependent adult abuse investigation under applicable law.

52.5(3) *Photographs.* An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved in accordance with Iowa Code section 235E.2(12).

52.5(4) *Evaluating information.* The department will consider the information as reported, other known or discovered information, and any information gathered as a result of the inspector's contact with collateral sources, including prior abuse allegations and disciplinary actions.

481—52.6(235E) Notification to subsequent employers. The department will notify a facility or program that subsequently employs a founded dependent adult abuser in accordance with Iowa Code section 235E.2(11).

These rules are intended to implement Iowa Code chapter 235E.

ARC 8849C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to bingo
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 103, "Bingo," 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 99B.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 99B; 2024 Iowa Acts, Senate File 2071; and Executive Order 10.

Purpose and Summary

This rulemaking proposes the repromulgation of Chapter 103. This rulemaking implements Iowa Code section 99B.2 as amended by 2024 Iowa Acts, Senate File 2071, in accordance with the goals and directives of Executive Order 10. Iowa Code section 99B.2 requires that the Department adopt rules to carry out the provisions of Iowa Code chapter 99B pursuant to Iowa Code chapter 17A. The rules may include but are not limited to descriptions of books, records, and accounting required, as well as requirements for qualified organizations, as defined in Iowa Code section 99B.1(29). The rules may also include methods of displaying costs; explanations of games and rules; and definitions of unfair or dishonest games, acts, or practices.

This rulemaking implements the aforementioned Iowa Code section by describing what qualifies as a bingo game, confirming that a license is required to conduct a bingo occasion, and setting forth the exceptions to that requirement. The rulemaking describes the way that costs and explanations of games and rules must be displayed and the appropriate prizes that can be awarded. The rulemaking explains what qualifies as reasonable expenses for a bingo event and sets forth the necessary bookkeeping and recordkeeping processes. Notably, the rulemaking also implements Senate File 2071, which increases the aggregate value of merchandise prizes and the price to play bingo.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024. A public hearing was held on the following date(s):

- December 31, 2024

The Department received no public comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on March 13, 2025. Comments should be directed to:

Amy Oetken
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025	Ledges Conference Room
10:30 to 11 a.m.	6200 Park Avenue, Suite 100
	Des Moines, Iowa

March 13, 2025
8:30 to 9 a.m.

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

Virtual participation information will be made available on the Department's website prior to the public hearings.

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 481—Chapter 103 and adopt the following **new** chapter in lieu thereof:

CHAPTER 103
BINGO

481—103.1(99B) Definitions. In addition to definitions found in Iowa Code chapter 99B and in rule 481—100.1(99B), the following definitions apply to all qualified organizations where bingo is played:

“*Cash*” means any legal tender of the United States.

“*Category*” means the name given to a particular type of playing face to distinguish one from another.

“*Playing face*” means the grid on which a player marks numbers and letters called as the game progresses.

481—103.2(99B) License.

103.2(1) A license is required to conduct a bingo occasion unless the requirements of Iowa Code section 99B.23 are met.

103.2(2) Bingo occasions are restricted to the location for which application is made by the qualified organization and approved by the department. For good cause, a license may be transferred to a different location after written notice by the licensee and approval by the department. “Good cause,” for purposes of this subrule, may include flood, fire or other natural disasters; sale of the building; or nonrenewal of lease.

103.2(3) Before any organization may conduct bingo, a license application must be approved by the department. Application and license requirements are found in rules 481—100.3(99B), 481—100.4(99B), and 481—100.5(99B).

103.2(4) Bingo occasions may be held as frequently as set forth in Iowa Code section 99B.12. A week starts on Sunday and ends on Saturday. At the end of each occasion, the person conducting the games shall announce both the gross receipts and the use to which the net receipts will be dedicated and distributed.

481—103.3 Reserved.

481—103.4(99B) Game of bingo. Each game shall meet the requirements of “bingo” as defined in Iowa Code section 99B.1(6) to be a legal game of bingo.

103.4(1) A fair and legal game shall meet all of the following criteria:

- a. There will be no concealed numbers on a playing face.
- b. There will be an announcer or caller.
- c. Numbers will be announced so all players can hear clearly.
- d. A free space or spaces are allowed.
- e. The caller selects and announces the numbers. If a caller miscalls a number or misreads a ball, only the number on the ball may be used. Miscalled numbers are invalid.
- f. The licensee may require that a player have the last number called for a bingo if posted in the rules established by the licensee.
- g. Each game ends when it is determined that a player has covered the announced pattern of spaces. The caller or another worker verifies the numbers on winning cards. The caller checks for additional bingos and officially closes the game.
- h. Wild numbers are allowed if chosen using a random selection method.

103.4(2) Any player may request that balls drawn and not drawn be inventoried when the winning card or cards are verified in the presence of the responsible party or the responsible party's designee and the caller. The player who requested verification may observe the count.

103.4(3) The cost to play shall be in accordance with the following:

- a. The cost of each game will not exceed \$50;
- b. Cards or games may only be sold within the premises of the bingo occasion and will have a posted price;
- c. The cost of each packet, playing face, or tear sheet will be the same for each participant;
- d. Payment will be made in a form provided in Iowa Code section 99B.5(2);
- e. Free games will not be given, including gift cards redeemable for games. Free concession items, such as food, beverages or daubers, are permitted.

103.4(4) Cards for each category shall be distinctly marked and easy to distinguish from all others.

- a. Bingo games or cards may only be printed on one side.
- b. In each game, the bingo operator must ensure that duplicate playing faces are not sold.

481—103.5(99B) State rules and rules established by the licensee. This chapter and house rules established by the licensee must be readily available to every bingo player during every bingo occasion, with rules established by the licensee posted on a sign near the front of the playing area.

103.5(1) Posted rules shall be in large, easily readable print and include:

- a. The name and mailing address of the licensee;
- b. Prices to play; and
- c. How to indicate "bingo" to halt the game and collect a prize.

103.5(2) Rules related to reserved seating and age restrictions for children to play may be included.

103.5(3) The following information shall be posted before the beginning of each bingo occasion and not be changed after the bingo occasion begins:

- a. Description of each game to be played, including an example of the winning pattern;
- b. Price of each game;
- c. Prize for each game or method for determining the prize for each game; and
- d. Jackpot rules if jackpot games will be played.

481—103.6(99B) Prizes. Cash and merchandise prizes are subject to the limits set forth in Iowa Code section 99B.21. The exact amount of the prize shall be announced before the beginning of each game.

103.6(1) Prizes shall be recorded each occasion on the daily bingo summary (Table A—end of this chapter) as they are paid by listing the number of the game; the winning pattern; the type, color, and series of cards used in the game; the amount of the prize; and the name, address, and social security number of each winner of any prize over \$600. Cash prizes over \$600 require the deduction of 5 percent withholding taxes as set forth in Iowa Code section 99B.8.

103.6(2) Cash prizes awarded in games with more than one winner shall be shared equally.

a. It is permissible to round up or down, provided doing so does not exceed the maximum payout for that particular game.

b. Examples of prizes awarded in games with more than one winner:

(1) Two winners with a total of three bingos: Player 1 has two bingos in separate squares, and Player 2 has one bingo in one square. Player 1 receives 2/3 of the prize, and Player 2 receives 1/3 of the prize.

(2) Multiple winners equally splitting a prize with rounding to the nearest dollar: Six players all win the single \$250 prize. The appropriate payout is \$41.66 each, but rounding to the nearest dollar (\$42) for each winner would result in a payout of \$252, in violation of the maximum payout for a nonjackpot bingo game.

103.6(3) A licensed qualified organization shall have rules governing how a merchandise prize is awarded when there is more than one winner, posted in accordance with rule 481—103.5(99B). The organization must:

a. Split the cash equivalent of the merchandise prize equally among the winners so long as the retail value of the merchandise prize is \$250 or less;

b. Provide a substitute merchandise prize with an aggregate retail value approximately equal to that of the designated prize so long as the aggregate retail value of all prizes is \$950 or less; or

c. Conduct a continuous or separate playoff bingo game consisting of only the winning players.

103.6(4) An animal shall not be awarded as a prize for persons participating in a game or fair event.

103.6(5) A player shall not be required to return cash or a merchandise prize won in one game in order to play a subsequent game.

103.6(6) Jackpot games shall be conducted in accordance with Iowa Code section 99B.21(2) “d” and the following:

a. The jackpot prize will not decrease until it is won;

b. If a jackpot game is not won in accordance with the rules for the jackpot game, the game may transition to a consolation game with a prize of \$250 or less.

This rule is intended to implement Iowa Code sections 99B.21, 422.16, and 717D.2.

481—103.7(99B) Workers.

103.7(1) Each organization must have a responsible party listed on the application who is an active member of the organization, familiar with the requirements of the Iowa law and aware of the bingo activities of the organization.

103.7(2) Volunteers must be actively participating members of the licensed organization or participate in an organization to which money will be dedicated.

103.7(3) Paid workers shall not play during a bingo occasion in which they work. Persons conducting bingo shall not play during any bingo occasion conducted by the qualified organization for which they work. A person conducting bingo includes: persons overseeing the bingo games, persons controlling and accounting for the bingo occasion’s net receipts, persons directing the work of bingo workers, and any persons having management or oversight responsibilities.

103.7(4) A person receiving rent for a bingo location, either directly or indirectly, shall not be involved in, participate in, or be associated with the operation of bingo games.

103.7(5) Anyone who sells bingo equipment or supplies to a bingo licensee shall not work for that licensee during a bingo occasion.

481—103.8(99B) Expenses.

103.8(1) The licensee shall be able to prove expenses were incurred exclusively and directly as a result of bingo and not exceed 40 percent of net receipts. Reasonable expenses within the 40 percent limit are:

a. The license fee;

b. Withholding, unemployment, or social security taxes;

c. Promotion cost;

- d.* Equipment and supply purchases;
- e.* Rent for bingo occasion;
- f.* Utilities for bingo occasion; and
- g.* Wages paid for bingo workers.

103.8(2) Expense items are allowed only when receipts or a paid invoice and canceled check are available for review by the department.

103.8(3) When the annual gross exceeds \$10,000, expenses shall be paid from a bingo checking account.

103.8(4) Expenses are not reasonable if the amount charged substantially exceeds the current rate or average retail cost of items or services purchased.

481—103.9(99B) Location. Bingo occasions may be conducted on premises as provided in Iowa Code section 99B.13 and shall meet the following criteria:

1. All buildings in which bingo occasions are conducted will meet state or local standards for occupancy and safety.
2. The name of the licensee will be posted on the sign of each building or location where bingo occasions are held. A name that is closely associated with the licensee and clearly identifies the lawful uses of the proceeds may also be used. Generic names, such as “Nelson Street Bingo” or “Uncle Bob’s Bingo,” will not be used.
3. During a bingo occasion, the lessor will not sell any beverage, food, or other merchandise in the room in which bingo is played.
4. Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

481—103.10(10A,725) Advertising. An organization may advertise bingo or any gambling activities legal under Iowa law.

This rule is intended to implement Iowa Code section 725.12.

481—103.11(10A,99B) Equipment. Equipment shall be used as it is intended by the manufacturer and meet the following criteria:

103.11(1) Equipment will be owned by the licensed organization or borrowed from another qualified organization. Use of equipment for which the licensed organization pays consideration directly or indirectly under the guise of a service charge is not allowed. No licensed organization may loan or borrow equipment, goods, or services in exchange for supplies. Equipment should not be rented or leased, but the purchase of equipment on contract is allowed.

103.11(2) Equipment used to conduct bingo will be maintained in good repair and sound working condition. No equipment will be altered to create an advantage for anyone. Play will progress so all players have an equal opportunity to win. Balls will be the same size, shape, weight, and balance. Balls will tumble and circulate freely within the container during bingo games. All 75 balls will be in the container before each game begins.

481—103.12(99B) Records. Accurate records shall be retained for a period of three years and provided to the department for review upon request. The following records are required:

103.12(1) The daily bingo summary (Table A—end of chapter), including:

- a.* The name of each worker;
- b.* The social security number of paid workers;
- c.* Compensation of any worker;
- d.* The number of players present;
- e.* A list of all games played, including a description of each game, the cost to play each game, the number and category of bingo cards used for each game, and the prize or prizes paid in each game. The summary will include the totals for the occasion of the gross receipts, prizes awarded, and jackpot prize amounts; and
- f.* The signature of a caller and another member of the organization.

103.12(2) An organization having \$100,000 or more in bingo gross receipts per year must also comply with the following for each bingo occasion:

a. Daily Bingo Summary—CASH CONTROL (Table B—end of chapter):

(1) Gross receipts, adjustments, prize payouts, and net receipts for each game played;

(2) Total net receipts, total cash counted, overage or shortage, and total amount to be deposited for the occasion; and

(3) Signed and dated by two members of the organization.

This form should correspond with the Daily Bingo Inventory Usage Form (Table B—end of chapter).

b. Daily Bingo Inventory Usage (Table C—end of chapter).

(1) For each loose sheet of bingo paper sold, the color, paper size, game(s) played, daily count start, purchases, voids, number of sheets sold, and daily count end.

(2) If packets are purchased preassembled, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end.

(3) If packets are assembled by the organization, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end. Each loose sheet of bingo paper used to assemble the packet will be accounted for by decreasing the applicable loose sheet bingo paper inventory under subparagraph 103.12(2) “*b*”(1) at the time of assembly.

103.12(3) Records of expenses and dedicated and distributed money are required as follows.

a. The following information will be retained for all payments:

(1) Date of payment.

(2) Payee.

(3) Amount of payment.

(4) Purpose of payment.

b. For checks, the purpose of payment will be recorded on the memo line of the check.

103.12(4) An employee record of people compensated for work at a bingo occasion shall be maintained that shows:

a. Name, address, and social security number;

b. Dates of employment;

c. Times and number of hours worked;

d. Wages paid;

e. Amounts withheld;

f. Check number.

The records must specifically identify for which bingo occasion an employee was compensated, whether or monetarily or otherwise.

103.12(5) An inventory list of the number of playing faces owned by the licensed organization is required to be updated each month.

481—103.13(99B) Bingo checking account. A qualified organization shall maintain a separate bingo checking account established within one day of attaining \$10,000 and as provided in Iowa Code section 99B.21(4).

103.13(1) Bingo receipts shall be deposited as provided in Iowa Code section 99B.21(4). Interest earned on deposits in a bingo checking or savings account shall be treated the same as proceeds of bingo occasions. Limited funds as described in Iowa Code section 99B.21(4) “*a*”(1) shall not exceed \$7,500. Records shall be kept that identify this money.

103.13(2) Payments shall be paid from the bingo account in accordance with the requirements of Iowa Code section 99B.21. Wages shall not be paid by cash.

103.13(3) The bingo account shall be used for both of the following events:

a. One qualified organization satisfies the dedication requirement by donating funds to another organization over which the licensed organization has no control; or

b. A qualified organization licensee is satisfying the dedication requirement by spending funds to further the charitable, educational, religious, public, patriotic, or civic purposes of its own organization.

481—103.14(10A,99B) Bingo savings account and bingo change fund.

103.14(1) *Bingo savings account.* When an organization places bingo receipts in any savings account, bingo funds shall be separate and recognizable from all other funds of the same organization. All funds in a bingo savings account shall be transferred into that account from a bingo checking account and transferred back to the bingo checking account before they are spent.

103.14(2) *Bingo change fund.* Moneys used as a change fund, if necessary, should be provided by the organization for each bingo occasion. The change fund can increase or decrease as appropriate for the anticipated participation in the bingo occasion. The balance of the change fund at the end of the fiscal year must be dedicated by July 30 and reported as set forth in rule 481—103.15(10A,99B). The fiscal year begins July 1 and ends June 30 of the following year. The change fund should be maintained in a secure manner.

481—103.15(99B) Annual gambling reports.

103.15(1) Each organization conducting bingo shall submit a report to the department as set forth in Iowa Code section 99B.16(3). When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day.

103.15(2) Annual gambling reports may be completed online at dial.iowa.gov. A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Des Moines, Iowa 50321; or by telephone at 515.281.6848.

103.15(3) The department may require a qualified organization to submit records of specific occasions with the annual report.

103.15(4) All transactions of any school group or parent support group using a schoolwide license shall be on the annual report.

481—103.16(10A,99B) Inspections and audits. Licensed organizations may be inspected or audited by a representative of the department at any reasonable time.

481—103.17(99B) Electronic bingo.

103.17(1) A qualified organization may lease electronic bingo equipment, as defined in Iowa Code section 99B.11(1), from a manufacturer or distributor licensed by the department.

103.17(2) Electronic bingo equipment shall be used only by disabled individuals. For purposes of this rule, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

103.17(3) Electronic bingo devices shall be used in the following manner:

a. Each player may input into the device each number called, or the device may automatically daub each number as the number is called.

b. Each player will notify the game operator or caller of the winning pattern of bingo by means other than use of the electronic bingo device.

c. Each player is limited to playing a maximum of 54 card faces per game.

d. The cost per bingo game will be the same as it would be if the individual were to purchase the same amount of paper or hard cards.

e. Players of electronic bingo will not be required to play more cards than if using paper or hard cards.

f. Each electronic bingo device will produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards loaded, cost of electronic bingo cards loaded, and date and time of the transaction. Images of cards or faces stored in an electronic bingo device will be exact duplicates of the printed faces if the faces are printed.

g. The department may examine and inspect any electronic bingo device and related system. Such examination and inspection will include immediate access to the electronic bingo device and unlimited

inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing.

h. All electronic bingo devices will be loaded and enabled for play on the premises where the game will be played.

i. All electronic bingo devices will be rented or otherwise provided to a player only by a qualified organization, and no part of the proceeds of the rental of such devices will be paid to a landlord, a landlord's employee or agent, or a member of the landlord's immediate family.

j. If a player's call of a bingo is disputed by another player, or if a department representative makes a request, one or more cards stored on an electronic bingo device will be printed by the organization.

k. Players may exchange a defective electronic bingo device for another electronic bingo device provided a disinterested player verifies that the device is not functioning.

This rule is intended to implement Iowa Code section 99B.21(3)“*b.*”

481—103.18(99B) Bingo at a fair or community festival. Bingo may lawfully be conducted at a fair or a community festival if the requirements of Iowa Code section 99B.22 are met. A qualified organization that has received permission from the sponsor of the fair or community festival to conduct bingo shall be licensed under Iowa Code section 99B.12.

These rules are intended to implement Iowa Code sections 99B.1 through 99B.7, 99B.11 through 99B.16, 99B.21 through 99B.23, and 99B.32.

IOWA DEPARTMENT OF INSPECTIONS,
APPEALS, AND LICENSING

DATE: _____

TABLE A

DAILY BINGO SUMMARY

Daily Cash Control Form users enter total only

[illegible]

Iowa Department of Inspections, Appeals, and Licensing

Social and Charitable Gambling Unit

Daily Bingo Summary—INVENTORY USAGE

TABLE C

Licensee's Name:
Qualified Organization License #:
Address:
City, State, ZIP:

Today's Date: _____

Loose Sheet Bingo Paper Inventory								
Color	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids/ Packet Assembly	(-) # Sold	(+/- Over/ Under)	Daily Count End

Preassembled Bingo Packets								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

Bingo Packets Assembled In-House								
When you assemble these packets, you must also decrease the applicable loose sheet bingo paper inventory above using the column Voids/Packet Assembly.								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Assembled	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

ARC 8953C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to model rules
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 506, "Model Rules for Contested Cases Before Licensing Boards and Informal Settlements," and to adopt a

new Chapter 506, “Model Rules for Contested Cases Before Licensing Boards and Settlements,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 272C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3 and 272C.3; 2024 Iowa Acts, Senate File 2385; and Executive Order 10.

Purpose and Summary

This rulemaking proposes revising the Department’s model rules for broader applicability to boards under the Department’s administrative authority, with the goal of increased standardization. Chapter 506 was repromulgated effective July 31, 2024, when 15 current boards under the Department’s administrative authority adopted the chapter through the 2023 Red Tape Review pursuant to Executive Order 10. The repromulgation proposed herein further refines the chapter for consistency with the contested case chapters of other boards under the Department’s administrative authority, such that an additional 11 or more boards will be able to easily adopt this chapter. Such boards include the Board of Medicine, Board of Pharmacy, Board of Nursing, and Dental Board, all of which are in the process of rescinding their individual contested case hearings chapters through their 2024 Red Tape Reviews pursuant to Executive Order 10. The proposed rulemaking thus aligns with Executive Order 10’s goal of reducing and simplifying the Iowa Administrative Code and creating unity throughout the Department since additional boards under the administrative authority of the Department are in the process of rescinding substantively similar chapters in reliance upon the rules proposed for promulgation herein.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024. A public hearing was held on the following date(s):

- January 15, 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, 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 March 11, 2025. Comments should be directed to:

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

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 481—Chapter 506 and adopt the following **new** chapter in lieu thereof:

CHAPTER 506
MODEL RULES FOR CONTESTED CASES BEFORE
LICENSING BOARDS AND SETTLEMENTS

481—506.1(17A) Scope and applicability. This model chapter provides rules for contested cases and settlements that licensing boards and commissions may adopt for procedural consistency. This chapter is deemed applicable to any licensing board under the administrative authority of the department, excluding the department’s attached units, unless the licensing board has separate rulemaking authority and has adopted rules governing contested cases and settlements.

481—506.2(17A) Definitions. For the purpose of these rules, the following definitions apply:

“*Attached units*” includes the employment appeal board, office of civil rights, racing and gaming commission, and state public defender’s office as described in Iowa Code chapter 10A.

“*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.

“*Department*” means the department of inspections, appeals, and licensing.

“*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.

“*Licensing board*” or “*board*” includes any licensing board set forth in Iowa Code section 272C.1(6) that is under the administrative authority of the department pursuant to Iowa Code chapter 10A, with the exception of the director or the department as referenced in Iowa Code section 272C.1(6) “*ae*” and “*af*,” and also includes any other licensing board under the administrative authority of the department pursuant to Iowa Code chapter 10A that has expressly adopted this chapter.

“*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, including the state of Iowa as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

“*Presiding officer*” includes the licensing board, administrative law judge, or panel of not less than three board members who are licensed in the profession as described in Iowa Code section 272C.6(1).

“*Probable cause*” means a reasonable ground for belief in the existence of facts warranting the specified proceeding.

“*Quorum*” means a majority of the members of the board unless otherwise defined by the board’s authorizing statute.

481—506.3(17A) Time requirements.

506.3(1) Time will be computed as provided in Iowa Code section 4.1(34).

506.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

481—506.4(17A) Probable cause. If the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board may order that a contested case hearing be commenced by the filing and service of a statement of charges and notice of hearing.

481—506.5(17A) Statement of charges and notice of hearing.

506.5(1) *Legal review.* Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general prior to filing.

506.5(2) *Service.* Service of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Service may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Restricted certified mail, return receipt requested; or
- c. Signed acknowledgment accepting service; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure, when service cannot be accomplished using the above methods.

506.5(3) *Contents.* The statement of charges and notice of hearing will contain the following information:

- a. A statement of probable cause to file the statement of charges;
- b. A statement of the time, place, and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular sections of the statutes and rules involved;
- e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- f. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties' counsel, if known;
- g. Reference to the procedural rules governing conduct of the contested case proceeding;
- h. Reference to the procedural rules governing settlement;
- i. Identification of the presiding officer;
- j. Notification of the time period in which a party may request, when applicable, and pursuant to Iowa Code section 17A.11 that the presiding officer be an administrative law judge;
- k. Notification of the time period in which the respondent may file an answer; and
- l. Notification of the respondent's right to request a closed hearing, if applicable.

506.5(4) *Public record.* A statement of charges and notice of hearing is a public record and open for inspection under Iowa Code chapter 22. Notwithstanding, investigative information included in the statement of charges and notice of hearing as set forth in subparagraph 506.5(3)"e" is confidential pursuant to Iowa Code section 272C.6(4)"a" and should not be included in the public record. Such confidential information should be redacted from the public record or set forth in a separate document that is not included with the public record.

481—506.6(17A,272C) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. All other parties to a proceeding before the board are entitled to legal representation at their own expense.

481—506.7(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case may be the board, an administrative law judge delegated in accordance with rule 481—506.8(17A,272C), or a panel of the board as described in Iowa Code section 272C.6(1). The board may also request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 481—506.24(17A). An administrative law judge may also assist and advise the board at the contested case hearing.

481—506.8(17A,272C) Delegation by board to administrative law judge.

506.8(1) Delegation. Upon majority vote of the board, a contested case, whether disciplinary or nondisciplinary, may be delegated to an administrative law judge. The board may delegate the entirety of the case or parts of the case to the administrative law judge. The delegation may occur at the time of filing the notice of hearing and statement of charges and should occur as early as practicable.

506.8(2) Proposed decisions. Decisions issued by an administrative law judge are proposed decisions in accordance with Iowa Code section 17A.15. A proposed decision issued by an administrative law judge becomes a final decision if not timely appealed or reviewed in accordance with this rule.

a. Appeal by party. Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

b. Review. The board may initiate review of the proposed decision on its own motion at any time within 30 days following the issuance of the proposed decision.

c. Exhaustion. A party must timely appeal a proposed decision to the board in order to adequately exhaust administrative remedies.

d. Notice of appeal. An appeal of a proposed decision is initiated by the filing of a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or an attorney for that party and contain a certificate of service. The notice shall specify:

- (1) The party initiating the appeal;
- (2) The proposed decision or order being appealed;
- (3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- (4) The relief sought; and
- (5) The grounds for relief.

506.8(3) 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.

506.8(4) Scheduling. The board will issue a schedule for consideration of the appeal.

a. 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 shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall 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.

b. Record. The record on appeal or review shall be the entire record made before the administrative law judge.

481—506.9(17A) Presiding officer in a nondisciplinary contested case.

506.9(1) Any party in a nondisciplinary contested case 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.

506.9(2) The board may deny the request only upon a finding that one or more of the following apply:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b. An administrative law judge is unavailable to hear the case within a reasonable time.
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- f. The request was not timely filed.
- g. The request is not consistent with a specified statute.

506.9(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 506.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

506.9(4) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

506.9(5) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board will have the powers of and will comply with the provisions of subrule 506.8(2).

481—506.10(17A) Disqualification.

506.10(1) A presiding officer or other person 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 is:
 - (1) A party to the case, or an officer, director or trustee of a party;
 - (2) A lawyer in the case;
 - (3) Known to have an interest that could be substantially affected by the outcome of the case; or
 - (4) 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.

506.10(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:

- a. General direction and supervision of assigned investigators;

filing. Except for the original statement of charges and 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.

506.13(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.

506.13(3) *Filing—when required.* After the statement of charges and notice of hearing, all pleadings and motions in a contested case proceeding shall be filed with the board. All documents that are required to be filed with the board shall be appropriately served upon all parties.

506.13(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board office at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; delivered to an established courier service for immediate delivery to that office; mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing; or filed electronically through AEDMS in accordance with 481—Chapter 16.

506.13(5) *Proof of mailing.* Proof of mailing includes:

- a. A legible United States Postal Service postmark on the envelope, or
- b. A certificate of service, or
- c. A notarized affidavit, or
- d. 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 _____ Board, 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)

481—506.14(17A) Discovery.

506.14(1) Discovery procedures applicable in civil actions are applicable in contested cases, with the exception of the mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure. Discovery will be served on all parties to the contested case proceeding but not be filed with the board.

506.14(2) Any motion 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 will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided by rule. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

506.14(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

506.14(4) The board's investigative file is available to the respondent or applicant upon request only after the commencement of a contested case and prior to the resolution of the contested case. A licensee who elects to enter into a combined statement of charges and settlement agreement is not entitled to request the investigative file. In accordance with Iowa Code section 272C.6(4), information contained within an investigative file is confidential and may only be used in connection with the disciplinary proceedings.

481—506.15(17A,272C) Subpoenas in a contested case.

506.15(1) Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearings and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to

appear at a deposition or hearing, or may be issued separately. Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 481—subrule 503.5(1) prior to the issuance of the subpoena.

506.15(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

- a.* The name, address and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena shall be directed;
- c.* The date, time, and location at which the person shall be commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested;
- f.* The date, time and location for production, or inspection and copying; and
- g.* In the case of a subpoena request for mental health records, confirmation that the conditions described in 481—subrule 503.5(1) have been satisfied.

506.15(3) Each subpoena will contain, as applicable:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena must be filed;
- i.* The signature, address and telephone number of the board administrator or designee;
- j.* The date of issuance; and
- k.* A return of service.

506.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee will email the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

506.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, must file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified before the earlier of the date specified for compliance or 14 days after the subpoena is served. The motion may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified for compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

506.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

506.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person, by email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

506.15(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the

contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

481—506.16(17A) Motions.

506.16(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

506.16(2) Any party may file a written response to a motion within ten days after the motion is served unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

506.16(3) The presiding officer may schedule oral argument on any motion.

506.16(4) Motions pertaining to the hearing 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.

506.16(5) Dispositive motions, such as motions for summary judgment or motions to dismiss, must be filed and served on all parties at least 30 days prior to the scheduled hearing date unless otherwise ordered or permitted by the presiding officer. Any party may file a written response to a dispositive motion within ten days after the motion is served unless the time for response is otherwise lengthened or shortened by the presiding officer.

481—506.17(17A) Prehearing conferences.

506.17(1) A prehearing conference may be ordered by the presiding officer, and any party may request a prehearing conference. Prehearing conferences will be conducted by an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion will be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference will be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

506.17(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the administrative law judge may issue appropriate orders concerning:

- a. The possibility of settlement.
- b. The entry of a scheduling order to include deadlines for completion of discovery.
- c. Stipulations of law or fact.
- d. Stipulations on the admissibility of exhibits.
- e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.
- f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the administrative law judge at the prehearing conference. Exhibits other than rebuttal exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.
- g. Stipulations of any provision of law.
- h. Identification of matters that the parties intend to request be officially noticed.
- i. Consideration of any additional matters that will expedite the hearing.

506.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

481—506.18(17A) Continuances.

506.18(1) Unless otherwise provided, an application for continuance shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the board administrator or designee may issue an order or delegate the matter to an administrative law judge. If the application for continuance is contested, the matter will be heard by the board or may be delegated by the board to an administrative law judge. No continuance shall be granted

within seven days of the date of hearing except for extraordinary, extenuating or emergency circumstances.

506.18(2) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven working days before the hearing, except in cases of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

506.18(3) An oral application for continuance may be made if the board or the presiding officer waives the requirement for a written motion. No application for continuance shall be made or granted without notice to all parties, except in an emergency where notice is not feasible.

506.18(4) The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The public interest;

d. The likelihood of informal settlement;

e. The existence of an emergency;

f. Any objection;

g. Any applicable time requirements;

h. The existence of a conflict in the schedules of counsel, parties, or witnesses;

i. The timeliness of the request; and

j. Other relevant factors.

481—506.19(17A,272C) Hearing procedures.

506.19(1) Hearings are conducted before a quorum of the board or an administrative law judge. With respect to contested cases before the board of medicine, if an insufficient number of board members are available to hear a contested case, the executive director, or designee, may request alternate members as defined in rule 653—1.1(17A,147) and Iowa Code sections 148.2A and 148.7(4) to serve on the hearing panel. A hearing panel must include at least six members, at least half of whom must be current board members and at least half of whom must be licensed to practice medicine under Iowa Code chapter 148.

506.19(2) The presiding officer has the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The board may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

506.19(3) All objections will be timely made and stated on the record.

506.19(4) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case.

506.19(5) 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. Subject to terms and conditions prescribed by the presiding officer, parties may present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference.

506.19(6) The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

506.19(7) Witnesses may be sequestered during the hearing.

506.19(8) The presiding officer has the authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

506.19(9) The presiding officer conducts the hearing in the following manner:

a. The presiding officer gives an opening statement briefly describing the nature of the proceedings;

- b.* The parties are given an opportunity to present opening statements;
- c.* The parties present their cases in the sequence determined by the presiding officer;
- d.* Each witness is sworn or affirmed by the presiding officer or the court reporter and 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, the parties may be given the opportunity to present final arguments.

506.19(10) The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

506.19(11) The hearing will be open to the public unless the licensee requests that the hearing be closed. At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents that are privileged or confidential by law.

506.19(12) Contested case hearings shall be recorded by electronic means or by a certified shorthand reporter. A party may request that a hearing be recorded by a certified shorthand reporter instead of through electronic means by filing a request with the board at least 14 days in advance of the hearing. Parties who request that a hearing be recorded by a certified shorthand reporter rather than by electronic means shall bear the cost of the certified shorthand reporter. Upon request, the board shall provide a copy of the whole or any portion of the record costs. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party. If the request for the hearing record is made as a result of a petition for judicial review, the party who filed the petition shall be considered the requesting party.

481—506.20(17A) Evidence.

506.20(1) The presiding officer rules on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

506.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

506.20(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

506.20(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.

506.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall 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 shall 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.

506.20(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 shall 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 shall be marked as part of an offer of proof and inserted in the record.

506.20(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

481—506.21(17A) Default.

506.21(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.

506.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

506.21(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. 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.

506.21(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.

506.21(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.

506.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

506.21(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 481—506.24(17A).

506.21(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 statement of charges and the contested case will proceed accordingly.

506.21(9) 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 481—506.26(17A).

481—506.22(17A) Ex parte communication.

506.22(1) Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and 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. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, 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.

506.22(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

506.22(3) Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

506.22(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 481—506.6(17A) 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.

506.22(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

506.22(6) The board administrator 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 final decision under any provision of law and they comply with this rule.

506.22(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.

506.22(8) 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.

a. 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.

b. 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.

506.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall 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.

506.22(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, suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by board personnel will be reported to the board and its board administrator for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

481—506.23(17A) 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 is paid by the requesting party.

481—506.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. 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. In determining whether to review an interlocutory order, the board will consider:

506.24(1) The extent to which granting the interlocutory appeal would expedite final resolution of the case; and

506.24(2) 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.

481—506.25(17A) Decisions.

506.25(1) *Final decisions.*

a. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A final decision of the board is an open record. Final decisions shall be served on the parties in accordance with rule 481—506.13(17A).

b. A decision of a hearing panel of the board of medicine containing alternate members is considered a final decision of the board in accordance with Iowa Code section 148.2A.

506.25(2) *Proposed decisions.*

a. Panel of specialists for board of medicine. When a panel of three specialists for the board of medicine presides over the hearing, the panel shall issue a proposed decision that includes findings of fact but does not include conclusions of law. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date of the proposed decision was issued.

b. Panel of board members or administrative law judge. When a panel of three or more board members or an administrative law judge presides over the hearing, the panel or administrative law judge shall issue a proposed decision that includes proposed findings of fact, conclusions of law, and an order. A proposed decision shall be reviewed by the board within 30 days of the date of the proposed decision was issued. A proposed decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 506.25(2) “c.”

c. Appeal of proposed decisions. A proposed decision pursuant to paragraph 506.25(2) “a” or “b” may be appealed to the full board by either party by serving on the board administrator, either in person, by email or by certified mail, a written notice of appeal within three days after service of the proposed decision on the appealing party.

(1) Following receipt of a notice of appeal, the board will enter an order establishing a schedule for further proceedings, which may include submission of briefs and oral argument. The parties shall serve their briefs on the board and each party.

(2) Oral argument may be heard by the board and may be waived by the parties. The time granted each party for oral argument is established by the board.

(3) The record on appeal includes the entire record made before the presiding officer. Costs associated with the appeal shall be paid by the appealing party.

d. Confidentiality. At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

e. Requests to present additional evidence. A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

- (1) The evidence is material; and
- (2) The evidence arose after the completion of the original hearing; or
- (3) Good cause exists for failure to present the evidence at the original hearing; and
- (4) The party has not waived the right to present additional 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 hearing panel or administrative law judge for further hearing or may itself preside at the taking of additional evidence.

481—506.26(17A) Applications for rehearing.

506.26(1) *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

506.26(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 shall state

whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

506.26(3) *Additional evidence.* A request that additional evidence be considered on rehearing is governed by paragraph 506.25(2)“e.”

506.26(4) *Filing deadline.* The application shall be filed with the board within 20 days after issuance of the final decision.

506.26(5) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

506.26(6) *Disposition.* Any application for a rehearing is deemed denied unless the agency grants the application within 20 days after its filing.

506.26(7) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

506.26(8) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

481—506.27(17A) Stays of agency actions.

506.27(1) *When available.* 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 or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy. A party must petition the board for a stay pursuant to this rule prior to requesting a stay from the district court in a judicial review proceeding.

506.27(2) *When granted.* In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5)“c.” The board will not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

506.27(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

481—506.28(17A) 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.

481—506.29(17A) Emergency adjudicative proceedings.

506.29(1) *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.18A 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.

506.29(2) *Factors for consideration.* 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.

506.29(3) Issuance of order.

a. An emergency adjudicative order contains 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. The order is a public record.

b. The written emergency adjudicative order will be immediately served upon the person who is 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 agency;
- (3) Certified mail to the last address on file with the agency;
- (4) Email to the last email on file with the agency; 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 agency 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.

506.29(4) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

506.29(5) 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.

a. Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for hearing.

b. 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 unless the person who is required to comply with the order is the party requesting the continuance.

481—506.30(17A) Appeal. Any appeal to district court from a decision in a contested case will be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

481—506.31(272C) Public record. The final decision of the board in a contested case is a public record. The board will report final decisions to the appropriate organizations, which may include but are not limited to the National Practitioner Data Bank and any media or other organizations that have filed a request for public information.

481—506.32(272C) Reinstatement.

506.32(1) Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension unless the order of revocation provides that the license is permanently revoked.

506.32(2) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

506.32(3) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

506.32(4) An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

506.32(5) An order of reinstatement will be based upon a decision that incorporates findings of facts and conclusions of law. The order will be published as provided for in this chapter.

481—506.33(17A,272C) License denial. An applicant may appeal a preliminary notice of denial of license by filing a written notice of appeal and request for hearing with the board within 30 days of the date that the preliminary notice of denial of license was mailed or emailed by the board. The hearing is a contested case conducted in accordance with this chapter.

481—506.34(272C) Disciplinary hearings—fees and costs.

506.34(1) Definitions. As used in this rule in relation to formal disciplinary action filed by the board against a licensee, the following definitions apply:

“Deposition” means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“Evaluation fees” means actual costs incurred by the board in a physical, mental, chemical abuse, other impairment-related examination or evaluation or clinical competency evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

“Expenses” means costs incurred by persons appearing pursuant to a subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and includes mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“Transcript” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“Witness fees” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation is the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

506.34(2) Disciplinary hearing fee and related hearing costs. As set forth in Iowa Code section 272C.6(6), a board created pursuant to Iowa Code chapter 147, 154A, 155, 169, 542, 542B, 543B, 543D, 544A, or 544B may charge a fee not to exceed \$75 for conducting a disciplinary hearing that results in disciplinary action taken against the licensee by the board. The board may also recover from the licensee the costs for transcripts, witness fees and expenses, depositions, and medical examination fees incurred relating to a person licensed under Iowa Code chapter 147, 154A, 155, or 169. An order assessing a fee will be included as part of the board's final decision and will direct the licensee to deliver payment directly to the board. The allocation of fees and costs collected pursuant to this subrule is in accordance with Iowa Code section 272C.6(6)“b.” The board may assess these costs in the manner it deems most equitable in accordance with the following:

a. Transcript costs. The board may recover the costs for the court reporter and assess the transcript costs against the licensee pursuant to Iowa Code section 272C.6(6), if applicable, or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board that occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the agency appeal process.

b. Witness fees and expenses. The parties in a contested case are responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may

assess the licensee the witness fees and expenses incurred by the witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses are determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses are determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences for failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines.

c. Deposition costs. Deposition costs for purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition that are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition cost includes a reasonable fee for an expert witness. This fee will not exceed the expert's customary hourly or daily fee and shall include the time reasonably and necessarily spent in connection with such deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for that deposition.

d. Medical examination fees. All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

506.34(3) *Certification of reimbursable costs.* The board administrator or designee will certify any reimbursable costs incurred by the board. The board administrator will calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

506.34(4) *Assessment of fees and costs.* A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed. If the board also assesses reimbursable costs against the licensee, the board will file a certification of reimbursable costs that includes a statement of costs delineating each category of costs and the amount assessed. The board will specify the time period in which the fees and costs must be paid by the licensee.

a. Prior to seeking judicial review, a party shall file an objection to any fees or costs imposed by the board in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

b. The application will be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculation of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

506.34(5) *Payment of fees and costs.* All fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to the board and delivered to the board office.

506.34(6) *Failure to make payment.* Failure of a licensee to pay any fees and costs within the time specified in the board order constitutes a violation of an order of the board and may be grounds for disciplinary action.

481—506.35(17A,272C) Settlement agreements.

506.35(1) Upon a determination by the board that probable cause exists to take public disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement or consent order. Entering into a combined statement of charges and settlement agreement or consent order is voluntary, and no licensee is entitled to be offered a combined statement of charges and settlement agreement or consent order. The combined statement of charges and settlement agreement or consent order shall include a brief statement of the charges, the circumstances that led to the charges, and the terms of settlement. Execution of a combined statement of charges and settlement agreement or consent order constitutes the commencement and resolution of a contested case proceeding. By electing to sign a combined statement of charges and settlement agreement, the licensee waives the right to a contested case hearing on the matter and waives the right to receive the investigative file. A combined statement of charges and settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(2) Any contested case may be resolved by settlement agreement or consent order. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process. The assistant attorney general representing the state of Iowa or approved department personnel are authorized to negotiate on behalf of the board.

506.35(3) The full board will not be involved in negotiations until a written proposed settlement is submitted to the full board for approval unless both parties waive this prohibition.

506.35(4) Consent to negotiation by the respondent during settlement negotiations constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss settlement with the board chairperson or designee or approved department personnel. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

506.35(5) Settlement agreements shall be completed at least seven days prior to the date scheduled for hearing whenever possible.

506.35(6) All settlements are subject to approval by the majority of the board. If the board fails to approve the settlement, it will be of no force or effect to either party and will not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement that the respondent is free to accept or reject.

506.35(7) A settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(8) The board may accept the voluntary surrender of a license if it is accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

481—506.36(17A) 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 if it deems the waiver to be inconsistent with the public interest.

These rules are intended to implement Iowa Code chapters 17A and 272C.

ARC 8874C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Board of Podiatry hereby proposes to amend Chapter 702, “Continuing Education for Podiatrists,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 149 and section 272C.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 149 and section 272C.2 and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. The rule sets forth continuing education and training requirements for podiatrists. The intended benefit of this rule is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. The rule is being amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant podiatrists the ability to carry over up to 20 hours of continuing education earned in excess of the 40 hours required 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 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

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

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

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 702.2(1) as follows:

702.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a podiatrist in this state shall be required to complete a minimum of 40 hours of continuing education. 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 20 hours from the previous renewal period.

ARC 8881C

INSPECTIONS AND APPEALS DEPARTMENT[481]**Notice of Intended Action****Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Board of Podiatry hereby proposes to amend Chapter 705, "Continuing Education for Orthotists, Prosthetists, and Pedorthists," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 148F and section 272C.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 148F and section 272C.2 and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 705 sets forth continuing education and training requirements for prosthetists, orthotists, and pedorthists. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. The chapter is being amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant prosthetists and orthotists the ability to carry over up to 15 hours of continuing education earned in excess of the 30 hours required every two years. Pedorthists could carry over up to 10 hours of continuing education earned in excess of the 20 hours required every two years.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

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

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

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 705.2(4) and adopt the following **new** subrule in lieu thereof:

705.2(4) 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. Prosthetists and orthotists may apply a maximum of 15 hours from the previous renewal period, and pedorthists may apply a maximum of 10 hours from the previous renewal period.

ARC 8950C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to practice of speech pathologists
and audiologists and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 741, "Practice of Speech Pathologists and Audiologists," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154F and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154F and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 154A as amended by 2024 Iowa Acts, Senate File 2385. The proposed rule states that audiologists are not required to hold a hearing aid specialist license in order to dispense hearing aids. The intended benefit of this rule is to allow audiologists to hold one license to practice audiology and hearing aid dispensing. The rule is proposed to be adopted to comply with the statutory changes from 2024 Iowa Acts, Senate File 2385, allowing an audiologist to dispense hearing aids without a hearing aid license.

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 20, 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 of Speech Pathology and Audiology 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 March 11, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025	6200 Park Avenue, Suite 100
2 to 2:20 p.m.	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 the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** rule 481—741.2(147):

481—741.2(147) Hearing aid dispensing. A licensed audiologist may dispense hearing aids without a separate hearing aid specialist license if the services are provided in accordance with the following:

741.2(1) Definitions.

“Dispense” or “sell” means a transfer of title or of the right to use by lease, bailment, or any other means but excludes a wholesale transaction with a distributor or hearing aid specialist and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

“*Hearing aid specialist*” means any person engaged in the fitting, dispensing and sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board. These rules are not intended to regulate unlicensed persons who sell, dispense, market, use, distribute, or provide customer support to over-the-counter hearing aids as regulated by the U.S. Food and Drug Administration.

741.2(2) An audiologist dispensing hearing aids will be held to the same standard of care as a licensed hearing aid specialist and will follow the rules in 481—Chapter 2062.

This rule is intended to implement Iowa Code chapters 147 and 154F.

ARC 8952C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 742, “Continuing Education for Speech Pathologists and Audiologists,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 154F and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 154F and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 154F and section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 742 sets forth continuing education and training requirements for speech pathologists and audiologists. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Speech Pathology and Audiology reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrules 742.2(1) and 742.2(4) are proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant speech pathologists and audiologists the ability to carry over up to 13 hours of continuing education earned in excess of the 26 hours required 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 20, 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 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 March 11, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025	6200 Park Avenue, Suite 100
2 to 2:20 p.m.	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 742.2(1) as follows:

742.2(1) The biennial continuing education compliance period will run concurrently with each two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, a person who is licensed to practice as a speech pathology or audiology licensee in this state will be required to complete a minimum of 26 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession. ~~Continuing education hours do not carry over. 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 13 hours from the previous renewal period.~~

ITEM 2. Amend subrule 742.2(4) as follows:

742.2(4) ~~No hours of continuing education will be carried over into the next biennium except as stated for second renewal.~~ 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 8951C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 761, “Continuing Education for Optometrists,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 154 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 154 and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 154 and section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 761 sets forth continuing education and training requirements for optometrists. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Optometry reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 761.2(1) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant optometrists the ability to carry over up to 25 hours of continuing education earned in excess of the 50 hours required 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 20, 2024

No public comments were received with regard to this chapter, but the Board did make a change referencing Iowa Code section 272C.2(2)“h.”

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 March 11, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025	6200 Park Avenue, Suite 100
11 to 11:20 a.m.	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 the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 761.2(1) as follows:

761.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as an optometrist in this state will be required to complete a minimum of 50 hours of continuing education that meets the standards in this chapter. ~~Continuing education hours cannot be carried over to the next biennium. 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 in compliance with Iowa Code section 272C.2(2) "h."~~

ARC 8957C

INSPECTIONS AND APPEALS DEPARTMENT[481]**Notice of Intended Action**

**Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Board of Physician Assistants hereby proposes to amend Chapter 782, “Continuing Education for Physician Assistants,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 148C and 272C and 2024 Iowa Acts, House File 2686.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 148C and section 272C.2 and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 148C and section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 782 sets forth continuing education and training requirements for physician assistants. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. The chapter is being amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant physician assistants the ability to carry over up to 50 hours of continuing education earned in excess of the 100 hours required 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

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 March 11, 2025. Comments should be directed to:

Michele Christiansen
Department of Inspections, Appeals, and Licensing
6200 Park Ave, Suite 100
Des Moines, Iowa 50321
Phone: 515.229.3939
Fax: 515.281.7969
Email: michele.royer@dia.iowa.gov

Public Hearing

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

March 11, 2025
12 noon to 12:30 p.m.

Ledges Conference Room
6200 Park Avenue, Suite 100
Des Moines, Iowa
Via videoconference call:
us02web.zoom.us/j/84473453569?pwd=o1mwNiyCBmaIvM2fVrechzJslHAaVp.1

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 782.2(1) as follows:

782.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee will be required to complete a minimum of 100 hours of continuing education approved by the board. 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 50 hours from the previous renewal period.

ARC 8862C

INSPECTIONS AND APPEALS DEPARTMENT[481]**Notice of Intended Action****Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 803, "Continuing Education for Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 148A and 272C and 2024 Iowa Acts, House File 2686.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 148A and 272C and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 803 sets forth continuing education and training requirements for physical therapists and physical therapist assistants. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Physical and Occupational Therapy reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 803.2(3) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant physical therapists the ability to carry over up to 20 hours of continuing education earned in excess of the 40 hours required by Iowa law every two years. This rulemaking would grant physical therapist assistants the ability to carry over up to 10 hours of continuing education earned in excess of the 20 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 20, 2024

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 boards.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on March 11, 2025. Comments should be directed to:

Venus Vendoures Walsh
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.242.6529
Fax: 515.281.7969
Email: venus.vendoures-walsh@dia.iowa.gov

Public Hearing

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

March 11, 2025	Ledges Conference Room
12:30 to 1 p.m.	6200 Park Avenue, Suite 100
	Des Moines, Iowa

Via videoconference call:
us02web.zoom.us/j/83307206230?pwd=ApbCK3Sky3WTlJNQguXKxEa8mtur.1
Meeting ID: 833 0720 6230

Information on virtual participation will also be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 803.2(3) as follows:

803.2(3) ~~No hours of continuing education shall be carried over into the next biennium except for a new licensee.~~ 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. Physical therapist licensees may apply a maximum of 20 hours from the previous renewal period. Physical therapist assistant licensees may apply a maximum of ten 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 8863C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 805, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 148B and 272C and 2024 Iowa Acts, House File 2682.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 148B and 272C and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 805 sets forth continuing education and training requirements for occupational therapists and occupational therapy

assistants. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Physical and Occupational Therapy reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 805.2(3) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant occupational therapists 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. This rulemaking would grant occupational therapy assistants the ability to carry over up to 7.5 hours of continuing education earned in excess of the 15 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 20, 2024

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 boards.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on March 11, 2025. Comments should be directed to:

Venus Vendoures Walsh
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.242.6529
Fax: 515.281.7969
Email: venus.vendoures-walsh@dia.iowa.gov

Public Hearing

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

March 11, 2025
1 to 1:30 p.m.

Ledges Conference Room
6200 Park Avenue, Suite 100
Des Moines, Iowa
Via videoconference call:
[us02web.zoom.us/j/87844989258?pwd=T0t816lCbRMPnoFTiWnlwehUdYA3jA.1](https://us02web.zoom.us/j/87844989258?pwd=us02web.zoom.us/j/87844989258?pwd=T0t816lCbRMPnoFTiWnlwehUdYA3jA.1)
Meeting ID: 878 4498 9258

Information on virtual participation will also be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 805.2(3) as follows:

805.2(3) ~~With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. 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. Occupational therapist licensees may apply a maximum of 15 hours from the previous renewal period. Occupational therapy assistant licensees may apply a maximum of 7.5 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 8956C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Board of Chiropractic hereby proposes to amend Chapter 844, "Continuing Education for Chiropractic Physicians," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 151 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 151 and section 272C.2 and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 151 and section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 844 sets forth continuing education and training requirements for chiropractors. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. The chapter is being amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the

previous renewal cycle. This rulemaking would grant chiropractors the ability to carry over up to 20 hours of continuing education earned in excess of the 40 hours required 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

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 March 11, 2025. Comments should be directed to:

Michele Christiansen
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.229.3939
Fax: 515.281.7969
Email: michele.royer@dia.iowa.gov

Public Hearing

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

March 11, 2025
11:30 a.m. to 12 noon

6200 Park Avenue, Suite 100
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 844.2(4) as follows:

844.2(4) ~~No hours of continuing education will be carried over into the next biennium except as stated in subrule 844.2(2) and subparagraph 844.3(2) “a”(3).~~ Up to 50 percent of continuing education hours can be carried over into the next biennium if there was an amount of continuing education completed during the prior period that exceeded the minimum requirement. A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation. The continuing education required in subparagraphs 844.3(2) “a”(2), (4), and (5) must be completed each biennium and cannot be carried over.

ARC 8878C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to licensing and providing an opportunity for public comment

The Board of Behavioral Health Professionals hereby proposes to adopt a new Chapter 880, “Behavioral Health Professionals Licensing,” and to rescind Chapter 885, “Licensure of Psychologists,” Chapter 891, “Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” and Chapter 895, “Licensure of Social Workers,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154B, 154C, 154D and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154B, 154C, 154D and 272C.

Purpose and Summary

This proposed chapter sets minimum standards for entry into the professions of mental health counselors, marital and family therapists, behavior analysts, assistant behavior analysts, social workers, and psychologists. Iowa residents, licensees, and employers benefit from the chapter because it articulates the processes by which individuals apply for licensure as a behavioral health professional in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering these professions has minimum competency. Requirements include the application process, minimum educational qualifications, and examination requirements. This rulemaking seeks to implement changes mandated by 2024 Iowa Acts, House File 2515, which amends supervision requirements to remove direct observation hours and modifies license by endorsement rules for mental health counselors and marriage and family therapists.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

March 11, 2025	Ledges Conference Room
9 to 9:30 a.m.	6200 Park Avenue, Suite 100
	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 880:

CHAPTER 880
BEHAVIORAL HEALTH PROFESSIONALS LICENSING

481—880.1(148,154B,154C,154D) Definitions.

“Active license” means a license that is current and has not expired.

“AMFTRB” means the Association of Marital and Family Therapy Regulatory Boards.

“ASPPB” means the Association of State and Provincial Psychology Boards.

“ASWB” means the Association of Social Work Boards.

“BACB” means the Behavior Analyst Certification Board.

“Board” means the board of behavioral health professionals.

“CCE” means the Center for Credentialing and Education, Inc.

“Certified health service provider in psychology” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“Course” means three graduate semester credit hours.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“NBCC” means the National Board for Certified Counselors.

“Provisional license” means a license issued to a person who is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure.

“Reactivate” or *“reactivation”* means the process as outlined in rules 481—880.11(272C) and 481—880.14(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in rule 481—506.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Temporary license” means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

481—880.2(154B,154C,154D) License requirements.

880.2(1) *Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist.* The following criteria shall apply to licensure:

a. The applicant shall submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.3(147,154D).

b. The applicant for a mental health counseling license shall submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

c. No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board have been received by the board or an equivalency evaluation completed by the CCE has been received by the board. The applicant shall present proof of meeting the educational requirements. Documentation of such proof shall be on file in the board office with the application and include one of the following:

(1) For licensure as a marital and family therapist, an official transcript verifying completion of a marital and family therapy program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as defined in paragraph 880.4(1)“a” or an equivalency evaluation of the applicant’s educational credentials completed by the CCE as defined in paragraph 880.4(1)“b.”

(2) For licensure as a mental health counselor, an official transcript verifying completion of a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as defined in paragraph 880.4(2)“a” or an equivalency evaluation of the applicant’s educational credentials completed by the CCE as defined in paragraph 880.4(2)“b.”

- d. The applicant is required to take the examination(s) provided in subrule 880.3(1).
- e. The applicant for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience as required in rule 481—880.7(154D).
- f. The applicant for temporary licensure must submit a supervision plan to the board prior to licensure. Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office. The temporary licensee shall remain under supervision until a permanent license is issued.
- g. A temporary license is only valid for the purpose of fulfilling the postgraduate supervised clinical experience requirement. It is valid for three years and may be renewed at the discretion of the board.
- h. A licensee who was issued an initial permanent license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.
- i. An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

880.2(2) *Licensure of behavior analysts and assistant behavior analysts.*

- a. The applicant must submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.3(147,154D).
- b. For licensure as a behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified behavior analyst or board-certified behavior analyst-doctoral. For licensure as an assistant behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified assistant behavior analyst.

880.2(3) *Requirements for initial psychology licensure.* The following criteria shall apply to licensure:

- a. The applicant must submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.16(147,154B).
- b. Except as otherwise stated in these rules, no application will be considered by the board until:
 - (1) Official copies of academic transcripts sent directly from the school to the board have been received by the board; and
 - (2) Satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed forms by the candidate's supervisors.
- c. An applicant shall successfully pass the national Examination for Professional Practice in Psychology (EPPP).
- d. The applicant shall have the national examination score sent directly from the ASPPB to the board.
- e. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:
 - (1) Considered invalid and shall be destroyed; or
 - (2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

880.2(4) *Requirements for provisional license.*

- a. *Predoctoral internship.* An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:
 - (1) A completed provisional application for licensure and the nonrefundable licensure fee specified in rule 481—507.16(147,154B).
 - (2) A copy of the applicant's acceptance letter for the predoctoral internship.
 - (3) Identification of the training director and the training director's contact information.
 - (4) Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 481—880.4(154B,154C,154D).

b. Postdoctoral residency. An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

(1) A completed application for licensure and the nonrefundable licensure fee specified in rule 481—507.16(147,154B).

(2) Official copies of academic transcripts sent directly from the school establishing that the requirements stated in subrule 880.4(4) are met.

(3) A completed supervision plan on the prescribed board form, signed by the applicant's supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

c. Duration. The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee's supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

(1) A provisional license renewal application;

(2) A provisional license renewal fee; and

(3) A current supervision plan as required in these rules.

880.2(5) *Certified health service provider in psychology.*

a. Requirements for the health service provider in psychology. The applicant shall:

(1) Verify at least one year of clinical experience in an organized health service training program that meets the requirements of paragraph 880.2(5) "b" and at least one year of clinical experience in a health service setting that meets the requirements for postdoctoral residency stated in rule 481—880.8(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Psychologists to verify completion of the required clinical experience.

(2) Submit a completed application and nonrefundable application fee along with supporting documentation. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

1. Considered invalid and shall be destroyed; or

2. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

(3) Renew the certificate biennially at the same time as the psychology license.

b. Requirements of the organized health service training program. Internship programs in professional psychology that are accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

(1) Provides the intern with a planned, programmed sequence of training experiences.

(2) Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.

(3) Has two or more doctoral-level psychologists on the staff who serve as supervisors, at least one of whom is actively licensed by the board of psychology in the jurisdiction in which the program exists.

(4) Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.

(5) Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.

(6) Ensures that trainees have a minimum of 375 hours of direct patient contact.

(7) Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.

(8) Has training that is at the postclerkship, postpracticum, and postexternship level.

(9) Has a minimum of two interns at the internship level of training during any period of training.

(10) Designates for internship-level trainees titles such as “intern,” “resident,” “fellow,” or other designation of trainee status.

(11) Has a written statement or brochure that describes the goals and content of the internship, states clear expectations for quantity and quality of trainees’ work and is made available to prospective interns.

(12) Provides a minimum of 1,500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

880.2(6) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure and the nonrefundable licensure fee specified in rule 481—507.16(147,154B).

a. The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant’s jurisdiction of residence, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

b. The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

880.2(7) Requirements for social work licensure. The following criteria shall apply to licensure:

a. The applicant must submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.19(147,154C).

b. No application will be considered by the board until official copies of academic transcripts have been received by the board except as provided in paragraph 880.2(7)“g.”

c. The applicant provides verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

d. The applicant will take the examination(s) provided in subrule 880.3(3).

e. Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

f. Incomplete applications that have been on file in the board office for more than two years will be:

- (1) Considered invalid and be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

g. In lieu of the requirements in paragraphs 880.2(7) “b” and “c,” the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

481—880.3(154B,154C,154D) Examination requirements.

880.3(1) *Examination requirements for mental health counselors and marital and family therapists.* The following criteria shall apply to the written examination(s):

a. The applicant will take and pass the following examinations in order to qualify for licensing:

(1) For a marital and family therapist license, the AMFTRB Examination in Marital and Family Therapy.

(2) For a temporary mental health counselor license, the National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC.

(3) For a mental health counselor license, the NCMHCE of the NBCC.

b. The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

c. An applicant who is requesting approval to take the licensure examination prior to graduation shall:

(1) Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.3(147,154D).

(2) Have a letter on official school letterhead sent directly from the program director to the board indicating that the applicant is in good academic standing, that the applicant will graduate from the program within three months of the date on the letter, and the applicant’s anticipated date of graduation.

880.3(2) *Psychology examination requirements.* An applicant will pass the national examination to be eligible for licensure in Iowa.

a. To be eligible to take the national examination, the applicant will:

(1) Meet all requirements of paragraphs 880.2(3) “a” and 880.2(3) “b”; and

(2) Provide official copies of academic transcripts sent directly from the school to the board of psychology verifying completion of a doctoral degree in psychology in accordance with subrule 880.4(4).

b. The EPPP passing score shall be utilized as the Iowa passing score.

880.3(3) *Social work examination requirements.*

a. The applicant will take and pass the ASWB examination at the appropriate level as follows:

(1) Bachelor-level social worker—the basic level examination.

(2) Master-level social worker—the intermediate level examination.

(3) Independent-level social worker—the clinical level examination.

b. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

c. The ASWB passing score will be utilized as the Iowa passing score.

d. An applicant may sit for the examination if the applicant meets the requirements stated in subrule 880.2(7). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student’s expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office.

e. In lieu of the requirements in paragraph 880.3(3) “b,” the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

f. In lieu of the requirements in paragraph 880.3(3) “a,” the board will accept verification of passing the state of California equivalent level licensing examination.

481—880.4(154B,154C,154D) Educational requirements.

880.4(1) *Educational qualifications for marital and family therapists.* The applicant must complete the required semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in paragraph 880.4(1)“b”; no course may be used more than once. The applicant must present proof of completion of the following educational requirements for licensure as a marital and family therapist:

a. Accredited program. Applicants must present with the application an official transcript verifying completion of a master’s degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the COAMFTE from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master’s degree of 45 semester hours or the equivalent; or

b. Content-equivalent program. Applicants must present an official transcript verifying completion of a master’s degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master’s degree of 45 semester hours or the equivalent. Graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of the graduates’ educational credentials by the CCE, website cce-global.org.

880.4(2) *Educational qualifications for mental health counselors.* The applicant must complete three semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in paragraph 880.4(2)“b”; no course may be used to fulfill more than one content area. The applicant must present proof of completion of the following educational requirements for licensure as a mental health counselor:

a. Accredited program. Applicants must present with the application an official transcript verifying completion of a master’s degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the CACREP from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2012, must present with the application an official transcript verifying completion of a master’s degree of 45 semester hours or the equivalent; or

b. Content-equivalent program. Applicants must present an official transcript verifying completion of a master’s degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education that is content-equivalent to a master’s degree in counseling with emphasis in mental health counseling. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the CCE, website cce-global.org.

880.4(3) *Foreign-trained marital and family therapists or mental health counselors.* Foreign-trained marital and family therapists or mental health counselors shall:

a. Provide an equivalency evaluation of their educational credentials by the following: International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website www.ierf.org or email at info@ierf.org. A candidate shall bear the expense of the curriculum evaluation.

b. Receive a final determination from the board regarding the application for licensure.

880.4(4) *Psychology educational qualifications.* An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

a. At the time of an applicant’s graduation:

(1) The program from which the doctoral degree in psychology is granted must be:

1. Accredited by the APA;
2. Accredited by the Canadian Psychological Association; or

3. Designated by the ASPPB/National Register; or
- (2) The applicant must hold current board certification from the American Board of Professional Psychology; or
- (3) The applicant must possess a postdoctoral respecialization certificate from a program accredited by the APA.

b. Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of paragraph 880.4(4) “a” will:

(1) Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Psychologists, 1200 New York Avenue NW, Suite 800, Washington, D.C. 20005, telephone 202.783.7663, website www.nationalregister.org, or by an evaluation service with membership in the National Association of Credential Evaluation Services at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate will bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in paragraph 880.4(4) “a.”

(2) Submit evidence of meeting all other requirements for licensure stated in these rules.

880.4(5) *Social work educational qualifications.*

a. Bachelor level social worker. An applicant for a license will possess a bachelor’s degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

b. Master and independent level social worker. An applicant for a license will present evidence satisfactory to the board that the applicant:

(1) Possesses a master’s degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or

(2) Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

c. Foreign-trained social workers shall provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone 310.258.9451, website www.ierf.org or email at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1701 Duke Street, Suite 200, Alexandria, Virginia 22314-3457, telephone 703.683.8080, website www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The applicant shall bear the expense of the curriculum evaluation.

481—880.5(154D) Licensure by endorsement for mental health counselors and marital and family therapists. An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

880.5(1) The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Meets the requirements of paragraph 880.2(1) “a”; and

b. Provides verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

880.5(2) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

481—880.6(147) Licensure by endorsement for psychologists. An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

880.6(1) The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

a. Submits a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.16(147,154B).

b. Provides verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least three years of an independent license as described in paragraph 880.6(1) “*c*” sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

c. Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least three years with no disciplinary history. Except as stated in paragraph 880.4(4) “*b*,” applicants providing certification or verification are deemed to have met the requirements stated in subparagraphs 880.6(1) “*c*” (1) and (2). The board may license by endorsement any other applicant who:

(1) Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

(2) Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

1. Provides:
 - Official copies of academic transcripts that have been sent directly from the school; and
 - Satisfactory evidence of the applicant’s qualifications in writing on the prescribed forms by the applicant’s supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

2. Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

- Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Psychologists.

- Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

880.6(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

481—880.7(154D) Supervised clinical experience. An applicant for licensure as a mental health counselor, marital and family therapist, or independent level social worker must complete a supervised clinical experience as set forth in this rule.

880.7(1) *Minimum requirements.* The supervised clinical experience must satisfy all of the following requirements:

a. Timing. The supervised clinical experience cannot begin until after all graduate coursework has been completed with the exception of the thesis.

b. Duration. The supervised clinical experience must be for a minimum of two years.

c. Minimum number of hours. The supervised clinical experience must consist of at least 3,000 hours of practice.

d. Minimum number of direct client hours. The supervised clinical experience will consist of at least 1,500 hours of direct client contact.

e. Minimum number of direct supervision hours. The supervised clinical experience will consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision will continue to occur for the remainder of the supervised clinical experience.

f. Number of supervisors. A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

g. Number of supervisees. A supervisor will determine the number of supervisees who can be supervised safely and competently and will not exceed that number.

h. Content. The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published March 2022, and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience will prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

880.7(2) Eligible supervisors. A supervisor must satisfy all of the following requirements:

a. Hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.

b. Have a minimum of three years of independent practice.

c. Have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.

d. Be knowledgeable of the applicable ethical code and licensing rules governing the supervisee. Any request for a supervisor who does not meet these requirements must be approved by the board before supervision begins.

880.7(3) Supervision plan. Prior to beginning supervision, the supervisee will submit a written supervision plan to the board using the current form published by the board. The supervisee will also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

880.7(4) Supervision report. When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee will ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

880.7(5) Supervised clinical experience in other states. An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience that has been completed can be used to qualify for licensure in Iowa.

880.7(6) Grandfather clause. Any new or additional requirements imposed by this rule do not apply to supervision that started prior to July 20, 2022.

481—880.8(154B) Psychology postdoctoral residency.

880.8(1) The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

880.8(2) During the postdoctoral residency, the supervisee will competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

a. The supervisee and supervisor will complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.

b. A supervisor will not have more than three concurrent full-time supervisees or the equivalent in part-time supervisees. Full-time is defined as 40 hours per week.

c. The supervisee and supervisor will meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.

d. The supervisor will provide supervision at all times, which means the supervisor will be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor will identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.

e. The supervisee and supervisor will have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.

f. The supervisor will establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

g. The supervisor will provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.

h. The supervisor and supervisee will ensure clients are informed regarding the supervisee's status and the sharing of information between the supervisee and supervisor.

i. The supervisor will have reasonable access to the clinical records corresponding to the work being supervised. The supervisor will countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervisor.

j. All services will be offered in the name of the supervisor. The supervisee and supervisor will ensure that the supervisee uses a title in accordance with rule 481—880.17(147,154B).

k. The fee schedule and receipt of payment will remain the sole domain of the supervisor or employing agency.

l. The supervisor will maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee's competence in each, and the type and outcome of all procedures.

m. The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

481—880.9(154B) Psychologists' supervision of persons other than postdoctoral residents in a practice setting.

880.9(1) This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 481—880.17(147,154B), regardless of whether the individual is provisionally licensed or not.

880.9(2) The supervising psychologist will:

a. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the

supervising psychologist, the supervising psychologist must have direct input into administrative matters.

b. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work will be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors will also be available for emergency consultation and intervention.

c. Provide work assignments that are commensurate with the skills of the supervisee. All procedures will be planned in consultation with the supervisor.

d. Work in the same physical setting as the supervisee unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider on site whenever the supervisee is working for purposes of providing emergency consultation.

e. Make public announcement of services and fees; contact with laypersons or the professional community will be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

f. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.

g. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

h. Provide for setting and receipt of payment that will remain the sole domain of the employing agency or supervising psychologist.

i. Establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

j. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description will be made available to representatives of the board and service recipients upon request.

k. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

l. Countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervising psychologist.

481—880.10(147) License renewal for mental health counselors and marriage and family therapists.

880.10(1) The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

880.10(2) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—881.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

880.10(3) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours 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 waiver of this requirement as identified in paragraph 880.10(3)“d.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours 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 waiver of this requirement as identified in paragraph 880.10(3)“d.”

c. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs 880.10(3)“a” and “b,” including program date(s), content, duration, and proof of participation.

d. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall 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 waiver by the board 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 481—Chapter 500.

e. The board may select licensees for audit of compliance with the requirements in paragraphs 880.10(3)“a” through “d.”

880.10(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

880.10(5) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person’s license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

880.10(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 481—subrule 507.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

880.10(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but shall not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

481—880.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts.

880.11(1) An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant’s current certification issued by BACB.

880.11(2) The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee’s BACB certification. Each license renewed shall be given the expiration date that is on the licensee’s current BACB certification. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

880.11(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements required by BACB to renew a certification.

b. Maintain current certification as a board-certified behavior analyst, board-certified behavior analyst-doctoral, or board-certified assistant behavior analyst issued by BACB.

c. Submit the completed renewal application and renewal fee before the license expiration date.

880.11(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

880.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

880.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

880.11(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but shall not engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires licensure in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

880.11(8) Reactivation. To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application and proof of current certification and shall be assessed a reactivation fee as specified in 481—subrule 507.3(6).

481—880.12(147) Psychology license renewal.

880.12(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

880.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

880.12(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—881.2(272C) and the mandatory reporting requirements of subrule 880.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

880.12(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours 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 waiver of this requirement as identified in paragraph 880.12(4)"*e*."

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph 880.12(4)"*e*."

c. The course(s) shall be the curriculum provided by the department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 880.12(4)"*a*" through "*c*," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall 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 waiver by the board 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 rule 481—500.14(272C).

f. The board may select licensees for audit of compliance with the requirements in paragraphs 880.12(4) “a” through “e.”

880.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

880.12(6) A person licensed to practice as a psychologist shall keep the person’s license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

880.12(7) Late renewal.

a. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.16(3).

b. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

880.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but shall not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

481—880.13(154C) Social work license renewal.

880.13(1) The biennial license renewal period for a license to practice social work will begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee will renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

880.13(2) Renewal procedures.

a. A licensee seeking renewal will:

(1) Meet the continuing education requirements of rule 481—881.2(272C) and the mandatory reporting requirements of subrule 880.13(3); and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

c. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

d. Failure to receive the notice of renewal will not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

e. A social worker whose Iowa license is delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

880.13(3) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal

application completion of two hours 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 waiver of this requirement as identified in paragraph 880.13(3)“e.”

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph 880.13(3)“e.”

c. The course(s) shall be the curriculum provided by the department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 880.13(3)“a” through “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall 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 waiver by the board 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 rule 481—500.14(272C).

f. The board may select licensees for audit of compliance with the requirements in paragraphs 880.13(3)“a” through “e.”

880.13(4) Late renewal. To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

880.13(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but shall not practice as a social worker in Iowa until the license is reactivated. A licensee who practices as a social worker in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

880.13(6) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

481—880.14(17A,147,272C) License reactivation for mental health counselors, marital and family therapists, psychologists, and social workers. To apply for reactivation of an inactive license, a licensee shall:

880.14(1) Submit a reactivation application.

880.14(2) Pay the reactivation fee that is due as specified in 481—Chapter 507.

880.14(3) Provide verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification directly from the jurisdiction’s board office if the verification provides:

a. Licensee’s name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

880.14(4) For mental health counseling and marriage and family therapy, provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the

license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

880.14(5) For psychology, provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

880.14(6) For social work, provide:

a. Verification of completion of 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, the verification in paragraph 880.14(6) “*a*” and one of the following:

(1) Verification of passing the ASWB examination within the last five years at the appropriate or higher level as follows:

1. Bachelor-level social worker—the bachelor’s level examination;
2. Master-level social worker—the master’s level examination; or
3. Independent-level social worker—the clinical level examination; or

(2) Verification of continued social work practice at the appropriate or higher level in another state for a minimum of two years immediately preceding the application for reactivation.

481—880.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—880.14(17A,147,272C) prior to practicing in this state.

481—880.16(154C) Social work services subject to regulation. Social work, marital and family therapy, and mental health counseling services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the practitioner, shall constitute the practice of the profession and are subject to regulation in Iowa.

481—880.17(147,154B) Psychology title designations.

880.17(1) Students who are enrolled in an education program that satisfies the requirements of subrule 880.4(4) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

880.17(2) Applicants for licensure who have met educational requirements and who are completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident” shall not be used except during a postdoctoral residency that meets the requirements of rule 481—880.8(154B).

880.17(3) Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident,” “intern,” or “fellow” designation.

481—880.18(147) Professional counselor licensing compact. The rules of the Counseling Compact Commission are incorporated by reference.

481—880.19(154D) Temporary licensees. A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.

These rules are intended to implement Iowa Code chapters 17A, 147, 154B, 154C, 154D and 272C.

ITEM 2. Rescind and reserve **481—Chapter 885.**

ITEM 3. Rescind and reserve **481—Chapter 891.**

ITEM 4. Rescind and reserve **481—Chapter 895.**

ARC 8876C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Board of Behavioral Health Professionals hereby proposes to adopt new Chapter 881, “Continuing Education for Marital and Family Therapists, Mental Health Counselors, Social Workers, and Psychologists,” and to rescind Chapter 886, “Continuing Education for Psychologists,” Chapter 892, “Continuing Education for Marital and Family Therapists and Mental Health Counselors,” and Chapter 896, “Continuing Education for Social Workers,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 154B, 154C, 154D and 272C and 2024 Iowa Acts, Senate File 2385.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 154B, 154C, 154D and 272C; 2024 Iowa Acts, Senate File 2385; and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed chapter sets forth continuing education requirements for mental health counselors, marriage and family therapists, social workers, and psychologists. It 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 chapter, 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. This rulemaking also seeks to implement 2024 Iowa Acts, House File 2686, which allows licensees to carry over a percentage of excess continuing education hours earned between renewal cycles.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

March 11, 2025 9 to 9:30 a.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 881:

CHAPTER 881

CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, SOCIAL WORKERS, AND PSYCHOLOGISTS

481—881.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means the license is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of behavioral health professionals.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent study” means a continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 881.2(9).

“License” means license to practice.

“Licensee” means any person licensed to practice marital and family therapy, mental health counseling, social work, or psychology in the state of Iowa.

“Practice of psychology” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes but is not limited to counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

481—881.2(272C) Continuing education requirements.

881.2(1) The biennial continuing education compliance period for mental health counselors and marriage and family therapists shall extend for a 25-month period beginning on September 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a mental health counselor or marriage and family therapist in this state is required to complete a minimum of 40 hours of continuing education that meets the requirements of this chapter.

881.2(2) The biennial continuing education compliance period for psychologists shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a psychologist in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

881.2(3) The biennial continuing education compliance period for social workers extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a social worker in this state will be required to complete a minimum of 27 hours of continuing education approved by the board.

881.2(4) Requirements for new mental health counselor, marriage and family therapist, and psychology licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. A new mental health counselor, marriage and family therapist, or psychology licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal. A new social work licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

881.2(5) No hours of continuing education are required to renew a provisional license.

881.2(6) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

881.2(7) Up to 50 percent of continuing education can be carried over into the next biennium if there was an amount of continuing education completed during the prior period that exceeded the minimum requirement. 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.

881.2(8) It is the responsibility of each licensee to finance the cost of continuing education.

881.2(9) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

881.2(10) Specific marriage and family therapy and mental health counseling criteria. Continuing education hours of credit may be obtained by completing the following:

a. Attendance at workshops, conferences, symposiums and webinars.

b. Academic courses. Official transcripts indicating successful completion of academic courses that apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

c. Completion of independent study courses that meet the general criteria in subrule 881.2(9).

d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

(1) Presenting professional programs that meet the criteria in subrule 881.2(9). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presenting at a professional program does not include teaching a class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

(4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.

(5) Authoring papers, publications, and books. The licensee will receive 5 hours of credit per page with a maximum of 20 hours of credit.

(6) Serving on a state or national professional board. The licensee will receive a maximum of three hours of credit.

881.2(11) Additional required specific criteria:

a. Three hours of the 40 continuing education hours will be in ethics.

b. Effective with the biennial continuing education compliance period that begins October 1, 2022, persons serving in a supervisory role must complete three hours of continuing education in supervision.

c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in child abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

881.2(12) Specific psychology criteria.

a. For the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members, a maximum of two of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements as specified in 481—subrule 880.10(3). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 881.2(9).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 881.2(9). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

881.2(13) Specific social work criteria. Continuing education hours of credit can be obtained by completing:

- a.* Coursework pertaining to one of the following content areas:
 - (1) Human behavior.
 1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;
 2. Community and organizational theories;
 3. Normal, abnormal and addictive behaviors;
 4. Abuse and neglect; and
 5. Effects of culture, race, ethnicity, sexual orientation and gender.
 - (2) Assessment and treatment.
 1. Psychosocial assessment/interview;
 2. Utilization of the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) of the American Psychiatric Association, published March 2022;
 3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;
 4. Establishing treatment goals and monitoring progress;
 5. Techniques of social work practice; and
 6. Interdisciplinary consultation and collaboration.
 - (3) Social work research, program evaluation, or practice evaluation.
 - (4) Management, administration, and social policy.
 1. Organizational policies and procedures;
 2. Advocacy and prevention in social work practice;
 3. Management of social work staff and other personnel; and
 4. Management of social work programs.
 - (5) Theories and concepts of social work education.
 - (6) Social work ethics as they pertain to the rules of conduct.
 - (7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee will submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.
- b.* A minimum of three hours per biennium in social work ethics.
- c.* Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours
1 academic quarter hour = 10 continuing education hours
- d.* Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.
- e.* Activities/programs that are sponsored or approved by:
 - (1) ASWB Approved Continuing Education (ACE) program; or
 - (2) National Association of Social Workers (NASW) Continuing Education Unit (CEU) Approval Program.
- f.* Pro bono or volunteer work that meets the following criteria:
 - (1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro bono or volunteer services for indigent, underserved populations or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.
 - (2) A licensee will apply for prior approval of pro bono or volunteer services by sending a letter to the board indicating that the following requirements will be met:
 1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.
 2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to this rule.

5. A representative from the site for pro bono or volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro bono or volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.
- The representative from the site must provide a letter indicating such completion.

g. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium.

h. Instruction, presentation, or moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program, provided the licensee receives a certificate of attendance in compliance with this rule.

i. Authorship of professional papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

j. Supervision of a social work practicum student(s) from an accredited social work education program. A licensee may receive one credit for every 100 hours supervised, not to exceed 6 hours of continuing education credit per biennium.

These rules are intended to implement Iowa Code chapters 154B, 154C, 154D and 272C.

ITEM 2. Rescind and reserve **481—Chapter 886.**

ITEM 3. Rescind and reserve **481—Chapter 892.**

ITEM 4. Rescind and reserve **481—Chapter 896.**

ARC 8875C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to discipline and providing an opportunity for public comment

The Board of Behavioral Health Professionals hereby proposes to adopt new Chapter 882, "Discipline for Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, Psychologists, and Social Workers," and to rescind Chapter 887, "Discipline for Psychologists," Chapter 893, "Discipline for Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts," and Chapter 898, "Discipline for Social Workers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 154B, 154C, 154D and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 154B, 154C, 154D and 272C.

Purpose and Summary

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the Board and are therefore excluded from the general disciplinary chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

March 11, 2025	Ledges Conference Room
9 to 9:30 a.m.	6200 Park Avenue, Suite 100
	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 882:

CHAPTER 882

DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, PSYCHOLOGISTS, AND SOCIAL WORKERS

481—882.1(154D,272C) Mental health counselors, marriage and family therapists, and behavioral analysts—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 481—Chapter 504:

882.1(1) Failure to comply with the national association's code of ethics.

a. Marital and family therapists. Failure to comply with the current American Association for Marriage and Family Therapy (AAMFT) Code of Ethics revised January 2015, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AAMFT's website.

b. Mental health counselors. Failure to comply with the current Code of Ethics of the American Counseling Association (ACA) published 2014, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the ACA website.

c. Behavior analysts and assistant behavior analysts. Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts published January 2023, which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB website.

882.1(2) Sexual relationships.

a. Current clients. A licensee shall not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. Former clients. A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee shall not provide clinical services to an individual with whom the licensee has had prior sexual contact.

882.1(3) Physical contact. A licensee shall not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries that govern such contact.

481—882.2(147,272C) Psychologists—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 the following offense or those listed in 481—Chapter 504: failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist and including amendments effective

January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's website at www.apa.org.

481—882.3(272C) Social workers—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 the following offense or those listed in 481—Chapter 504: violation of a regulation, rule, or law of this state, another state, or the United States that relates to the practice of social work, including but not limited to the rules of conduct found in rule 481—884.4(154C).

These rules are intended to implement Iowa Code chapters 147, 154B, 154C, 154D and 272C.

ITEM 2. Rescind and reserve **481—Chapter 887**.

ITEM 3. Rescind and reserve **481—Chapter 893**.

ITEM 4. Rescind and reserve **481—Chapter 898**.

ARC 8877C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to prescribing psychologists and providing an opportunity for public comment

The Board of Behavioral Health Professionals hereby proposes to adopt a new Chapter 883, "Prescribing Psychologists," and to rescind Chapter 889, "Prescribing Psychologists," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 154B and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 154B and 272C.

Purpose and Summary

This proposed chapter lays out the minimum standards for education and practice of psychologists with a conditional prescribing certificate and psychologists with a prescribing certificate. Members of the public, licensees, training programs, and employers benefit from having a clear understanding of the minimum standards for appropriate training and practice in this state. Requirements include the application process, minimum educational qualifications, and supervision requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

March 11, 2025 9 to 9:30 a.m.	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 883:

CHAPTER 883
PRESCRIBING PSYCHOLOGISTS

481—883.1(148,154B) Definitions—joint rule.

“*APA*” means the American Psychological Association.

“*Applicant*” means a psychologist applying for a conditional prescription certificate.

“*Board*” means the Iowa board of psychology.

“*Board of medicine*” means the Iowa board of medicine.

“*Collaborating physician*” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who serves as a resource for a

prescribing psychologist pursuant to a collaborative practice agreement. A collaborating physician shall engage in the practice of family medicine, internal medicine, neurology, pediatrics, or psychiatry.

“Conditional prescribing psychologist” means a person licensed to practice psychology in Iowa who holds an active conditional prescription certificate. This term does not include prescribing psychologists.

“Conditional prescription certificate” means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication under the supervision of a supervising physician.

“CSA registration” means a Controlled Substance Act registration issued by the Iowa board of pharmacy authorizing a psychologist to possess and prescribe controlled substances.

“DEA registration” means a mid-level practitioner registration with the Drug Enforcement Administration authorizing a psychologist to possess and prescribe controlled substances.

“Joint rule” means a rule adopted by agreement of the board of psychology and the board of medicine through the joint rulemaking process.

“Mental disorder” means a disorder that is defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published by the American Psychiatric Association March 2022, or contained within the mental and behavioral disorders chapter of the most recent version of the International Classification of Diseases, 11th revision, effective January 1, 2022.

“Prescribing psychologist” means a person licensed to practice psychology in Iowa who holds an active prescription certificate. This term does not include conditional prescribing psychologists.

“Prescription certificate” means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication.

“Primary care provider” means a person who engages in the practice of family medicine, internal medicine, neurology, pediatrics, obstetrics and gynecology, or psychiatry and oversees a patient’s general medical care, consistent with Iowa Code section 280A.1.

“Psychologist” means a person licensed to practice psychology in Iowa.

“Psychotropic medication” means a medication that shall not be dispensed or administered without a prescription and that has been explicitly approved by the federal Food and Drug Administration for the treatment of a mental disorder, as defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published by the American Psychiatric Association March 2022, or the most recent version of the International Classification of Diseases, 11th revision, effective January 1, 2022. “Psychotropic medication” does not include narcotics.

“Supervising physician” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who supervises a conditional prescribing psychologist. A supervising physician shall specialize in family medicine, internal medicine, neurology, pediatrics, or psychiatry.

“Training director” means an employee of the psychopharmacology training program who is primarily responsible for directing the training program.

“Training physician” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who provides training to a psychologist as part of the clinical experience and practicum described in rule 481—883.3(148,154B). A training physician shall engage in the practice of family medicine, internal medicine, neurology, pediatrics, or psychiatry. A training physician shall be approved by the psychopharmacology training program.

481—883.2(154B) Conditional prescription certificate. A conditional prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders under supervision in accordance with the requirements of this chapter.

883.2(1) Application. Unless a basis for denial exists in accordance with rule 481—883.9(154B), the board shall issue a conditional prescription certificate to an applicant who satisfies the following requirements:

- a.* Holds an active license to practice psychology in Iowa and an active health service provider certification issued by the board. Both the license and the health service provider certification must be in good standing.
- b.* Meets the educational requirements set forth in rule 481—883.3(148,154B). Official academic transcripts shall be sent directly from the school to the board.
- c.* Submits a supervision plan in accordance with subrule 883.4(1).
- d.* Possesses malpractice insurance that covers the prescribing of psychotropic medications.
- e.* Submits a completed application and a nonrefundable application fee of \$270.

883.2(2) *Term.* A conditional prescription certificate shall be valid for a period of four years from the date of issuance. The board shall not renew a conditional prescription certificate unless a conditional prescribing psychologist cannot complete the requirements of supervised practice within four years due to extenuating circumstances. A conditional prescribing psychologist may request an extension of a conditional prescription certificate when extenuating circumstances exist to provide additional time for the requirements of supervised practice to be met.

481—883.3(148,154B) Educational requirements for conditional prescription certificate—joint rule. An applicant for a conditional prescription certificate shall have completed a program of study designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The program must have included didactic instruction, a clinical experience, and a practicum satisfying the requirements of this rule. A minimum of 40 hours of basic training on clinical assessment skills shall be included as part of the program's didactic instruction.

883.3(1) *Degree.* An applicant shall possess a postdoctoral master of science degree in clinical psychopharmacology from a program designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The degree program must be a minimum of 30 credit hours, not including the practicum, and shall include coursework in basic science; neuroscience; clinical medicine; pathological basis of disease; clinical pharmacology; psychopharmacology; and professional, ethical and legal issues. A minimum of one-third of the coursework must be completed in a live interactive format. A program must be designated by the APA at the time the degree is conferred.

883.3(2) *Clinical experience.* An applicant shall have completed a clinical experience in accordance with the requirements of this subrule. During the clinical experience, a psychologist shall learn clinical assessment techniques and pathophysiology through direct observation and hands-on training with a training physician. During the clinical experience, a psychologist shall become competent in health history interviews, physical examinations, and neurological examinations with a medically diverse patient population. The clinical experience must be associated with the psychopharmacology training program from which the psychologist obtained the postdoctoral master of science degree in clinical psychopharmacology.

a. Scope. At the beginning of the clinical experience, the psychologist shall directly observe the training physician performing clinical assessments of patients. After the training physician determines the psychologist has gained sufficient knowledge, the clinical experience shall transition to the psychologist's performance of clinical assessments of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may perform clinical assessments of patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients and is reviewing all medical records. A psychologist and a training physician shall have ongoing discussions regarding the psychologist's clinical assessment skills and progress in the clinical experience.

b. Minimum experience. The clinical experience shall consist of a minimum of 600 patient encounters that shall be completed by the end of the practicum.

c. Conflict of interest. A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

d. Milestones. To satisfactorily complete the clinical experience, a psychologist shall demonstrate competency in each of the following:

(1) Perform a health history interview to obtain pertinent information regarding a patient's chief complaint, history of the present illness, past medical and surgical history, family history, allergies, medications, and psychosocial history. The psychologist shall perform a review of systems to elicit a health history and shall appropriately document the health history.

(2) Perform a physical examination in a logical sequence, ensuring appropriate positioning of the patient, proper patient draping, and proper application of the principles of asepsis throughout the examination. The psychologist shall verbalize and assess the components of a general survey and be able to accurately assess all of the following: vital signs, including pulse, respiration, and blood pressure; skin, hair and nails; head, face and neck; eyes; ears, nose, mouth and throat; thorax, lungs and axillae; heart; peripheral vascular system; abdomen; and musculoskeletal system. The psychologist shall be proficient in utilizing any equipment needed to conduct a physical examination.

(3) Complete a neurological examination demonstrating knowledge of the history related to the neurological system and the ability to assess the following: mental status, cranial nerves, motor system, sensory system, and reflexes. The psychologist shall differentiate normal laboratory values from abnormal laboratory values and correlate abnormal laboratory values with impaired physiological systems. The psychologist shall identify adverse drug reactions and identify laboratory data and physical signs indicating an adverse drug reaction.

e. Informed consent. At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the clinical experience. The psychologist shall provide sufficient information regarding the expectations and requirements of the clinical experience to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

f. Training documentation. The psychologist and the training director shall maintain documentation accounting for all clinical experience patient encounters, including the dates, times, and locations of all clinical experience patient encounters, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

g. Certification. The training physician(s) and the training director shall certify on forms provided by the board that the applicant has successfully completed the minimum number of clinical experience patient encounters required and demonstrated competence in clinical assessment techniques and pathophysiology through completion of the milestones defined in these rules.

883.3(3) *Practicum.* An applicant shall have completed a practicum in accordance with the requirements of this subrule. During the practicum, a psychologist shall develop competencies in evaluating and treating patients with mental disorders through pharmacological intervention via observation and active participation. The practicum must be associated with the psychopharmacology training program from which the applicant obtained the postdoctoral master of science degree in clinical psychopharmacology and must be completed in a period of time not less than six months and not more than three years.

a. Scope. At the beginning of the practicum, the psychologist shall directly observe the training physician evaluating and treating patients with mental disorders. After the training physician determines the psychologist has gained sufficient knowledge, the practicum shall transition to the psychologist's evaluation and treatment of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may evaluate and treat patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients, has personal contact with the patient at each visit, and is reviewing all pertinent medical records. During the practicum, the training physician shall make all final treatment decisions, with consultation from the psychologist prior to making a final determination regarding the psychopharmacological treatment of a patient.

b. Minimum number of hours. A practicum shall consist of a minimum of 400 hours. Only hours spent face to face evaluating and treating patients with mental disorders and hours spent discussing treatment plans with a training physician may count as practicum hours. Time spent by the psychologist providing services that are within the scope of practice of a licensed psychologist, such as psychological examinations and psychotherapy, shall not be counted as practicum hours.

c. Minimum number of patients. A psychologist shall see a minimum of 100 individual patients throughout the practicum. A patient can be counted toward this requirement if the patient has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. Over the course of the practicum, the psychologist shall observe, evaluate, and treat patients encompassing a range of ages and a variety of psychiatric diagnoses.

d. Settings. At least 100 hours of the 400 hours must be completed in a psychiatric setting. At least 100 hours of the 400 hours must be completed in a primary care or community mental health setting.

e. Conflict of interest. A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

f. Milestones. To successfully complete the practicum, a psychologist shall demonstrate competency in each of the following:

(1) Physical examination and mental status examination. The psychologist shall perform comprehensive and focused physical examinations and mental status evaluations, demonstrate proper use of instruments, and recognize variation associated with developmental stages and diversity.

(2) Review of systems. The psychologist shall integrate information learned from patient reports, signs, symptoms, and a review of each major body system, recognizing normal developmental variations.

(3) Medical history interview. The psychologist shall systematically conduct a patient clinical interview, producing a patient's medical, surgical, psychiatric, and medication history, as well as a family medical and psychiatric history, and be able to communicate the findings in written and verbal form.

(4) Assessment indications and interpretation. The psychologist shall order and interpret appropriate tests (e.g., psychometric, laboratory, and radiological) for the purpose of making a differential diagnosis and monitoring therapeutic and adverse effects of treatment.

(5) Differential diagnosis. The psychologist shall determine primary and alternate diagnoses using established diagnostic criteria.

(6) Integrated treatment planning. The psychologist shall identify and select, using all available data, the most appropriate treatment alternatives, including medication, psychosocial, and combined treatments, and sequence treatment within the larger biopsychosocial context.

(7) Consultation and collaboration. The psychologist shall understand the parameters of the role of a prescribing psychologist and work with other professionals, including a patient's primary care physician, in an advisory or collaborative manner to effectively treat a patient.

(8) Treatment management. The psychologist shall apply, monitor, and modify as needed the treatment of a patient and learn to write valid and complete prescriptions.

(9) Medical documentation. The psychologist shall demonstrate appropriate medical documentation for the patient-psychologist interaction to include subjective and objective assessment; mental status, physical examination findings, or both; formulation; diagnostic impression; and comprehensive treatment plan.

g. Informed consent. At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the practicum. The psychologist shall provide sufficient information regarding the expectations and requirements of the practicum to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

h. Training documentation. The psychologist and the training director shall maintain documentation regarding all patients observed, evaluated, and treated by the psychologist as part of the practicum. The documentation shall clearly identify the training physician for each patient. The

psychologist and the training director shall maintain documentation of all practicum hours, including the dates, times, and locations of all practicum hours, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

i. Certification. The training physician(s) and the training director shall certify on forms provided by the board that the psychologist has successfully completed the minimum number of practicum hours, treated the minimum number of patients, and demonstrated competence in the evaluation and treatment of patients with mental disorders through pharmacological intervention through completion of the milestones defined in these rules.

883.3(4) Examination. A psychologist shall pass the Psychopharmacology Examination for Psychologists (PEP) administered by the APA Practice Organization's College of Professional Psychology or by the Association of State and Provincial Psychology Boards. The passing score utilized by the board shall be the passing score recommended by the test administrator. The examination score shall be sent directly from the testing service to the board.

481—883.4(148,154B) Supervised practice as a conditional prescribing psychologist—joint rule. A conditional prescribing psychologist shall complete a minimum of two years of supervised practice in prescribing psychotropic medications to patients with mental disorders in accordance with this rule to be eligible to apply for a prescription certificate.

883.4(1) Supervision plan. Prior to issuing a conditional prescription certificate, the board shall review and approve the proposed supervision plan.

a. The proposed supervision plan must include the following:

(1) Conditional prescribing psychologist information. The plan must include the name, license number, address, telephone number, and email address of the supervisee.

(2) Supervising physician information. The plan must include the name, license number, date of licensure, area of specialization, address, telephone number, and email address of each supervising physician.

(3) Primary supervising physician. The plan must include a designation of the primary supervising physician.

(4) Period of supervision. The plan must include the beginning date of the supervision plan and estimated date of completion.

(5) Locations and settings. The plan must include a description of the locations and settings where and with whom supervision will occur.

(6) Scope of practice. The plan must include a description of the scope of practice of the conditional prescribing psychologist, including any limitations on the types of psychotropic medications that may be prescribed and the patient populations to which a prescription may be issued and including the expectations and responsibilities of the supervising physician.

(7) Release of information. The plan must include a provision requiring the conditional prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the conditional prescribing psychologist to share the patient's health information with the supervising physician.

(8) Consultation between the conditional prescribing psychologist and the supervising physician. The plan must include a provision requiring that the conditional prescribing psychologist consult with the supervising physician on a regular basis regarding a patient's psychotropic treatment plan and any potential complications. A conditional prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician objects on the basis of a contraindication.

(9) Consultation between the supervising physician and the primary care physician. The plan must include a provision requiring that the supervising physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

(10) Termination of the supervision plan. The plan must include a description of how the supervision plan may be terminated and the process for notifying affected patients.

(11) Signatures. The plan must include signatures of the psychologist and all supervising physicians.

b. A conditional prescribing psychologist shall inform the board of any amendments to the conditional prescribing psychologist's supervision plan, including the addition of any supervising physicians, within 30 days of the change. Amendments to a supervision plan are subject to board approval.

c. The board shall transmit all approved supervision plans and approved amendments to the board of medicine.

883.4(2) *Responsibilities of a supervising physician.* A supervising physician shall provide supervision in accordance with rules established by the board of medicine.

883.4(3) *Responsibilities of a conditional prescribing psychologist.* At the initial contact, a conditional prescribing psychologist shall inform a patient, or a patient's legal guardian when appropriate, that the conditional prescribing psychologist is practicing under the supervision of a physician for purposes of prescribing psychotropic medication and shall provide the name of the supervising physician. A conditional prescribing psychologist shall provide sufficient information regarding the supervision requirements to obtain informed consent and appropriate releases. Upon request, a conditional prescribing psychologist shall provide additional information regarding the conditional prescribing psychologist's education, training, or experience with respect to prescribing psychotropic medications.

883.4(4) *Specialization.* A conditional prescribing psychologist shall complete the following training during the supervised practice period to be eligible to prescribe psychotropic medications to the respective population as a prescribing psychologist:

a. *Children.* To prescribe to patients who are less than 17 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

- (1) A pediatric practice,
- (2) A child and adolescent practice, or
- (3) A general practice provided the conditional prescribing psychologist treats a minimum of 50 patients who are less than 17 years of age.

b. *Elderly patients.* To prescribe to patients who are over 65 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

- (1) A geriatric practice, or
- (2) A general practice with patients across the lifespan including patients who are over 65 years of age.

c. *Serious medical conditions.* To prescribe to patients with serious medical conditions, including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, a conditional prescribing psychologist shall complete at least one year prescribing psychotropic medications to patients with serious medical conditions.

883.4(5) *Completion of supervised practice.* A conditional prescribing psychologist shall see a minimum of 300 patients over a minimum of two years to complete the supervised practice period, provided each of the 300 patients has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. A conditional prescribing psychologist shall treat a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

a. At the conclusion of the supervised practice period, a primary supervising physician shall certify the following:

- (1) Supervision was provided in accordance with rules established by the board of medicine.
- (2) A conditional prescribing psychologist has successfully completed two years of supervised practice, considered at least 300 patients for psychopharmacological intervention, and treated at least 100 patients with psychotropic medications.
- (3) A conditional prescribing psychologist intending to specialize in the psychological care of children or elderly persons, or persons with serious medical conditions, has completed the requirements of subrule 883.4(4).

(4) A conditional prescribing psychologist has successfully completed the supervised practice period and demonstrated competence in psychopharmacology by demonstrating competency in the milestones listed in paragraph 883.3(3) “f” sufficient to obtain a prescription certificate.

b. If a conditional prescribing psychologist is unable to successfully complete the supervised practice period prior to the expiration of the conditional prescription certificate, the conditional prescribing psychologist may request an extension of the conditional prescription certificate provided that the conditional prescribing psychologist can demonstrate that the conditional prescribing psychologist is likely to successfully complete the supervised practice within the extended time requested. Any requests for extension must be submitted to and approved by both the board and the board of medicine.

481—883.5(154B) Prescription certificate. A prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders in accordance with the requirements of this chapter.

883.5(1) Application. Unless a basis for denial exists in accordance with rule 481—883.9(154B), the board shall issue a prescription certificate to a conditional prescribing psychologist who satisfies the following requirements:

a. Holds an active license to practice psychology in Iowa, an active health service provider certification issued by the board, and an active conditional prescription certificate. The license, certification, and certificate must all be in good standing.

b. Submits documentation regarding successful completion of the supervised practice period.

c. Submits a collaborative practice agreement in accordance with rule 481—883.8(148,154B).

d. Possesses malpractice insurance that covers the prescribing of psychotropic medications.

e. Submits a completed application and a nonrefundable application fee of \$60.

883.5(2) Initial term and renewal. An initial prescription certificate shall be valid through the current expiration date of the applicant’s psychologist license. Thereafter, a prescription certificate shall be renewed biennially concurrent with the renewal of the psychologist license. A prescribing psychologist may renew a prescription certificate by submitting a completed renewal application and a nonrefundable application fee of \$60. A prescribing psychologist is responsible for renewing the prescription certificate prior to its expiration.

883.5(3) Continuing education required. A prescribing psychologist shall complete a minimum of 20 hours of continuing education in psychopharmacology each year. A total of 40 hours of continuing education in psychopharmacology is required to renew a prescription certificate. These hours are separate from, and in addition to, the continuing education hours needed to renew a psychologist license pursuant to 481—Chapter 241. If a psychologist specializes in treating children, a minimum of 10 hours of continuing education in psychopharmacology each year, for a total of 20 hours of continuing education per renewal period, must be directly related to prescribing psychotropic medication to children.

883.5(4) Late renewal. A prescription certificate shall become late when it has not been renewed prior to the expiration date. To renew a late prescription certificate, a prescribing psychologist shall complete the renewal requirements and submit a late fee of \$60 within 30 days following the prescription certificate expiration date. A prescribing psychologist who fails to renew a prescription certificate within 30 days following the prescription certificate expiration date shall have an inactive prescription certificate. A psychologist whose prescription certificate is inactive continues to hold the privilege of certification in Iowa but may not prescribe psychotropic medications until the prescription certificate is reactivated.

883.5(5) Reactivation. To apply for reactivation of an inactive prescription certificate, a psychologist shall submit a completed reactivation application, a nonrefundable fee of \$60, and documentation of a minimum of 40 hours of continuing education in psychopharmacology taken within the preceding two years. If a prescription certificate has been inactive for more than five years, a psychologist shall demonstrate competence in psychopharmacology through one of the following means:

a. Practiced as a prescribing psychologist in another jurisdiction in the preceding two years.

b. Completed a period of supervised practice for a minimum of 12 months. The board may issue a conditional prescription certificate to complete a supervised practice period for purposes of prescription certificate reactivation.

481—883.6(148,154B) Prescribing—joint rule. This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall comply with all prescription requirements described in 657—subrule 8.19(1). The following limits apply to a psychologist's prescriptive authority:

1. A psychologist shall only prescribe psychotropic medications for the treatment of mental disorders.
2. A psychologist shall only prescribe psychotropic medications in situations where the psychologist has adequate education and training to safely prescribe.
3. A prescription shall identify the prescriber as a "psychologist certified to prescribe" and shall include the Iowa license number of the psychologist.
4. A prescription issued by a conditional prescribing psychologist shall contain the name of the supervising physician overseeing the care of the patient.
5. A psychologist shall not delegate prescriptive authority to any other person.
6. A psychologist is prohibited from prescribing narcotics as defined in Iowa Code section 124.101.
7. A psychologist shall maintain an active DEA registration and an active CSA registration in order to dispense, prescribe, or administer controlled substances.
8. A psychologist shall not self-prescribe nor prescribe to any person who is a member of the psychologist's immediate family or household.
9. Before prescribing a psychotropic medication that is classified as a controlled substance, a psychologist shall check the patient's prescriptive profile using the Iowa prescription monitoring program.
10. To prescribe to a patient who is pregnant or lactating, a psychologist shall consult with the patient's obstetrician-gynecologist or the physician managing the patient's pregnancy or postpartum care regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication to a patient if the patient's obstetrician-gynecologist or the physician managing care objects on the basis of a contraindication.
11. To prescribe to a patient who has a serious medical condition, including but not limited to heart disease, kidney disease, liver disease, cancer, stroke, seizures, or comorbid psychological conditions, or to a patient who has a developmental or intellectual disability, a psychologist shall consult with the physician who is managing the comorbid condition for that patient regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication if the patient's physician objects on the basis of a contraindication.
12. A psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician or collaborating primary care provider objects on the basis of a contraindication.

481—883.7(148,154B) Consultation with primary care providers—joint rule. This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall maintain a cooperative relationship with the primary care provider who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical conditions, and significant changes in the patient's medical or psychological condition are discussed.

883.7(1) Requirement for a primary care provider. A patient must have a designated primary care provider who engages in the practice of family medicine, internal medicine, neurology, pediatrics, obstetrics and gynecology, or psychiatry in order for a psychologist to have the ability to prescribe psychotropic medications to the patient. If a patient does not have a designated primary care provider, a psychologist shall refer the patient to a primary care provider prior to prescribing psychotropic

medications to the patient. A psychologist shall not prescribe psychotropic medications to a patient until the patient has established care with a primary care provider.

883.7(2) *Requirement for a release.* A psychologist shall obtain a release of information from the patient, or the patient's legal guardian when appropriate, authorizing the sharing of the patient's health information between the psychologist and the patient's primary care provider. A psychologist shall not prescribe psychotropic medications to a patient who refuses to sign a release.

883.7(3) *Cooperation and consultation with primary care provider.* A psychologist shall contact each patient's primary care provider on at least a quarterly basis and shall contact the primary care provider to relay information regarding the care of a patient whenever the following occur:

- a. A psychologist is considering adding a new psychotropic medication to a patient's medication regimen. A psychologist shall not prescribe a new psychotropic medication if the patient's primary care provider objects on the basis of a contraindication.
- b. A psychologist is discontinuing or changing the dosage of a psychotropic medication.
- c. A patient experiences adverse effects from any medication prescribed by the psychologist that may be related to the patient's medical condition.
- d. A psychologist receives the results of laboratory tests related to the medical care of a patient.
- e. A psychologist notes a change in a patient's mental condition that may affect the patient's medical treatment.

481—883.8(148,154B) Collaborative practice—joint rule.

883.8(1) A prescribing psychologist shall have one or more collaborating physicians at all times, as evidenced by a current collaborative practice agreement. Prior to executing a collaborative practice agreement, a prescribing psychologist and a collaborating physician shall review and discuss each other's relevant education, training, experience, and competencies to determine whether a collaborative practice is appropriate and to facilitate drafting a suitable collaborative practice agreement. A collaborative relationship between a prescribing psychologist and a collaborating physician shall ensure patient safety and optimal clinical outcomes. Collaboration may be done in person or via electronic communication in accordance with these rules. A physician shall not serve as a collaborating physician for more than two prescribing psychologists at one time. A prescribing psychologist shall not prescribe without a current written collaborative practice agreement with a collaborating physician in place. All collaborative relationships shall be reviewed and evaluated on an annual basis to ensure that the prescribing psychologist is competent to safely prescribe psychotropic medications to patients and that the collaborating physician is providing appropriate feedback to the prescribing psychologist. A collaborative practice agreement shall establish the parameters of the collaborative practice that are mutually agreed upon by the prescribing psychologist and the collaborating physician and shall be reviewed on an annual basis.

883.8(2) A collaborative practice agreement shall include the following:

- a. *Prescribing psychologist information.* The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the prescribing psychologist.
- b. *Collaborating physician information.* The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the collaborating physician.
- c. *Time period.* The time period covered by the agreement.
- d. *Locations and settings.* The locations and settings where collaborative practice will occur.
- e. *Collaboration.* A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborating physician is available for timely collaboration with a prescribing psychologist, either in person or via electronic communication, in accordance with these rules.
- f. *Scope of practice.* The scope of practice agreed upon by the collaborating physician and the prescribing psychologist, as it relates to the prescribing psychologist's prescribing of psychotropic

medications, including provisions to ensure that the prescribing psychologist's practice complies with all provisions of these rules.

g. Clinical protocols, practice guidelines, and care plans. Clinical protocols, practice guidelines, and care plans relevant to the scope of practice authorized.

h. Methods of communication. A description of how a prescribing psychologist and a collaborating physician may contact each other for consultation.

i. Limitations on psychotropic medications. A description of any limitations on the range of psychotropic medications the prescribing psychologist may prescribe. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only prescribes psychotropic medications that are consistent with the prescribing psychologist's education, training, experience, and competence.

j. Limitations on patient populations. A description of any limitations on the types of populations that the prescribing psychologist may treat with psychotropic medications. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only provides psychopharmacology services to patient populations that are within the prescribing psychologist's education, training, experience, and competence.

k. Release of information. A provision requiring the prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the prescribing psychologist to share the patient's health information with the collaborating physician.

l. Chart review. A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborative physician personally reviews and documents review of at least 10 percent of the prescribing psychologist's patient charts on a quarterly basis in each of the following categories:

- (1) Juvenile patients,
- (2) Pregnant or lactating patients,
- (3) Elderly patients,
- (4) Patients with serious medical conditions, and
- (5) All other patients.

m. Annual review. A provision requiring an annual review and evaluation of the collaborative relationship and the collaborative practice agreement.

n. Consultation between the prescribing psychologist and the collaborating physician. A provision requiring that the prescribing psychologist consult with the collaborating physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications. A prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the collaborating physician objects on the basis of a contraindication.

o. Consultation between the collaborating physician and the primary care provider. A provision requiring that the collaborating physician consult with the patient's primary care provider on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

p. Termination. A provision describing how the agreement can be terminated and the process for notifying affected patients if there will be an interruption in services.

q. Signatures. Signatures of the prescribing psychologist and all collaborating physicians.

481—883.9(154B) Grounds for discipline. The board may deny, suspend, revoke, or impose other discipline as outlined in 481—Chapter 13 against a psychologist who holds a conditional prescription certificate or prescription certificate for any of the following:

- 883.9(1)** Violating any of the grounds for discipline set forth in rule 481—242.2(147,272C).
- 883.9(2)** The inability to safely prescribe psychotropic medications.
- 883.9(3)** Prescribing medications in violation of rule 481—883.6(148,154B).
- 883.9(4)** Repeatedly failing to cooperate and collaborate with primary care physicians.

883.9(5) Prescribing psychotropic medications without a current written collaborative practice agreement.

883.9(6) Failing to maintain malpractice insurance that covers the prescribing of psychotropic medications.

883.9(7) Practicing outside the scope of a collaborative practice agreement.

883.9(8) Prescribing medications while the conditional prescription certificate or prescription certificate is inactive, or prescribing controlled substances while the DEA registration or CSA registration is not current.

883.9(9) Having a conditional prescription certificate or prescription certificate disciplined by the licensing authority of another state.

883.9(10) Having a license or health service provider certification disciplined by the board or the licensing authority of another state.

481—883.10(154B) List of psychologists. The board shall maintain a list of all current conditional prescribing psychologists and prescribing psychologists. The list shall be transmitted annually to the board of medicine.

883.10(1) Information. The list shall include the name of the psychologist, license number, license expiration date, expiration date of the conditional prescription certificate or prescription certificate, and practice locations.

883.10(2) Additions and deletions. When a psychologist is added or removed from the list, the board shall notify the board of medicine of the addition or deletion.

481—883.11(148,154B) Complaints—joint rule. Any complaint received by the board alleging a violation of this chapter shall be forwarded to the board of medicine. Any complaint received by the board of medicine alleging a violation of this chapter shall be forwarded to the board.

481—883.12(148,154B) Joint waiver—joint rule. Any rule identified as a joint rule may only be waived upon approval by both the board and the board of medicine.

481—883.13(148,154B) Amendment—joint rule. Any rule identified as a joint rule may only be amended by agreement of the board and board of medicine through a joint rulemaking process.

These rules are intended to implement Iowa Code chapters 148 and 154B.

ITEM 2. Rescind and reserve **481—Chapter 889.**

ARC 8880C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to practice of behavioral health professionals and providing an opportunity for public comment

The Board of Behavioral Health Professionals hereby proposes to adopt a new Chapter 884, “Practice of Social Workers, Psychologists, Marriage and Family Therapists, and Mental Health Counselors,” and to rescind Chapter 888, “Practice of Psychology,” Chapter 891, “Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” and Chapter 897, “Practice of Social Workers,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 154B, 154C, 154D, and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154B, 154C, 154D and 272C.

Purpose and Summary

This proposed rulemaking provides Iowans, licensees, and employers with practice guidance and requirements for social workers, psychologists, marriage and family therapists, and mental health counselors. The rules provide guidance on what is considered appropriate and what is not appropriate practice. Categories include informed consent, competency, supervision, privacy and confidentiality, recordkeeping, access to records, billing and fees, dual relationships and conflicts of interest, sexual relationships, physical contact, termination of services, misrepresentations, impairments, research, organization relationships and business practices, discrimination and sexual harassment, electronic social work services, National Code of Ethics, and general guidance.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 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 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 March 11, 2025. Comments should be directed to:

Tony Alden
Department of Inspections, Appeals and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.4401
Fax: 515.281.7969
Email: tony.alden@dia.iowa.gov

Public Hearing

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

March 11, 2025
9 to 9:30 a.m.

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

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following new 481—Chapter 884:

CHAPTER 884

PRACTICE OF SOCIAL WORKERS, PSYCHOLOGISTS, MARRIAGE
AND FAMILY THERAPISTS, AND MENTAL HEALTH COUNSELORS

481—884.1(154B,154C) Definitions.

“*APA*” means the American Psychological Association.

“*Client*” means the individual, couple, family, or group to whom a licensee provides direct social work services.

“*Clinical records*” means records created by a licensee regarding the observation and treatment of patients, such as progress notes, but does not include psychotherapy notes.

“*Clinical services*” means services provided by a licensed master social worker (LMSW) or licensed independent social worker (LISW) that involve the professional application of social work theory and methods in diagnosing, assessing, treating, and preventing psychosocial disabilities or impairments, including emotional and mental disorders.

“*Counseling*” means a method used by licensees to assist clients in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

“*Examinee*” means a person who is the subject of a forensic examination for the purpose of informing a decision maker or attorney about the psychological functioning of that examinee.

“*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996 and related regulations promulgated thereunder.

“*Patient*” means an individual under the care of a licensee in a clinical role and is synonymous with the term “client.”

“*Personal representative*” means a person authorized to act on behalf of the patient in making health care-related decisions, such as a parent or legal guardian, an individual with a health care power of attorney, an individual with a general power of attorney or durable power of attorney that includes the power to make health care decisions, or a court-appointed legal guardian.

“*Psychosocial therapy*” means a specialized, formal interaction between an LMSW or LISW and a client in which a therapeutic relationship is established and maintained to assist the client in overcoming or abating specific emotional, mental, or social problems and achieving specified goals for well-being. Psychosocial therapy is a form of psychotherapy that emphasizes the interface between the client and the client's environment. Therapy is a planned, structured program based on a diagnosis and is directed to accomplish measurable goals and objectives specified in the client's individual treatment plan.

“*Psychotherapy notes*” means notes recorded by a licensee documenting or analyzing the contents of a conversation during a private therapy session with a patient, or a group, joint, or family therapy session, that are maintained separately from the patient's clinical records. “Psychotherapy notes”

excludes medication prescription monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of any clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

“Telepsychology” means the provision of psychological services using telecommunication technologies.

“Test data” means raw and scaled scores, patient responses to test questions or stimuli, and notes and recordings concerning patient statements and behavior during an examination.

“Test materials” means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

481—884.2(147,154B,272C) Purpose and scope. The purpose of this rule is to set the minimum standards of practice for psychologists practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Psychologists will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in 481—subrule 880.2(6). The APA Code of Ethics, published January 1, 2017, is applicable and enforceable to the extent it does not conflict with any standards of practice set forth in this chapter. A psychologist may be disciplined for any violation of this chapter or the APA Code of Ethics.

884.2(1) Access to records.

a. *Clinical records generally.* When records are requested along with a signed release from the patient or the patient’s personal representative, a psychologist will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA (Health Insurance Portability and Accountability Act of 1996, PL No. 104-191, August 21, 1996, 110 Stat. 1936).

b. *Psychotherapy notes.* A psychologist is not required to release psychotherapy notes in response to a signed release; if a psychologist chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

c. *Substance use disorder treatment programs.* Psychologists who practice in a federally assisted substance use disorder treatment program, also known as a Part 2 program, are prohibited from disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with Part 2 requirements.

d. *Clinical records of minor patients.* A minor patient is a patient who is under the age of 18 and is not emancipated. A psychologist is not required to release the clinical records of a minor patient to the minor’s personal representative if releasing such records is not in the minor’s best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

e. *Clinical records of deceased patients.* A psychologist will provide the clinical records of a deceased patient to the deceased patient’s executor upon a written request accompanied by a copy of the patient’s death certificate and a copy of the legal document identifying the requestor as the patient’s executor.

f. *Forensic records.* A psychologist will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

g. *Board.* A psychologist shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A psychologist is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

h. *Exceptions.* These rules do not apply when there is a legal basis for not disclosing requested information.

884.2(2) Psychological testing. A psychologist may administer psychological tests and assessments to a patient or examinee if the psychologist has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

a. *Use of proctors.* A psychologist may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The psychologist is responsible for supervising any proctors.

b. *Release of test data.* A psychologist will not provide test data to any person, with the exception that the test data with proper written release may be disclosed to a licensed psychologist designated by

the patient or examinee. A psychologist who receives test data in this manner shall not further disseminate the test data.

c. Release of test materials. A psychologist shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological test to receive the records associated with the psychological testing of the subject. A psychologist shall not disclose test materials in any administrative, judicial, or legislative proceeding.

884.2(3) Judicial proceedings. Prior to participating in a judicial proceeding, a psychologist will become familiar with the rules governing the proceeding. A psychologist will understand and clearly identify the psychologist's role in the proceeding.

a. Licensure. A license to practice psychology in Iowa or an exemption from licensure is not required solely to testify as an expert witness in court, if the psychologist did not personally examine the examinee. A psychologist who personally examines an examinee located in Iowa for the purpose of providing an expert opinion is required to be licensed or exempt from licensure at the time of the evaluation.

b. Custody evaluations. A psychologist who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings published December 2010.

884.2(4) Telepsychology. A psychologist may practice telepsychology provided the following are met:

a. The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

b. Prior to initiating telepsychology with a new patient or examinee, a psychologist will take reasonable steps to verify the identity and location of the patient or examinee.

c. A psychologist will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

d. A psychologist will gain competency in the use of a particular technology prior to utilizing it in practice. A psychologist shall only use technologies that are secure and functioning properly.

e. A psychologist will apply the same ethical and professional standards of care and professional practice that are required when providing in-person psychological services. If the same standard of care cannot be met with telepsychology, a psychologist will not utilize telepsychology.

884.2(5) Records. A psychologist will complete clinical records as soon as practicable to ensure continuity of services. All clinical records shall be completed within 30 days after the service or evaluation is complete unless there are significant extenuating circumstances. Clinical records and psychotherapy notes will be retained for at least seven years after the last date of service, or until at least three years after a minor reaches the age of 18, whichever is later. Forensic records will be completed and retained consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

481—884.3(147) Mental health counselor and marriage and family therapist recordkeeping.

884.3(1) A mental health counselor or marriage and family therapist shall maintain sufficient, timely, and accurate documentation in client records.

884.3(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a mental health counselor or marriage and family therapist provides direct clinical services.

884.3(3) A mental health counselor's or marriage and family therapist's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

884.3(4) Clinical services. A mental health counselor or marriage and family therapist who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the mental health counselor's or marriage and family therapist's employer or agency, if applicable. If no other legal provisions govern record retention, a mental health counselor or marriage and family therapist shall store all client records for a minimum of seven years after the date of the client's discharge or death or, in the case of a minor, for three years after the client

reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A mental health counselor or marriage and family therapist who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A mental health counselor or marriage and family therapist may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

884.3(5) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the mental health counselor or marriage and family therapist shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

884.3(6) Correction of records.

a. Hard-copy records. Original notations shall be legible, be written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the mental health counselor or marriage and family therapist.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

884.3(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a mental health counselor or marriage and family therapist shall not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

884.3(8) Retirement, death or discontinuance of practice.

a. If a mental health counselor or marriage and family therapist is retiring or discontinuing practice and is the owner of a practice, the mental health counselor or marriage and family therapist shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a mental health counselor's or marriage and family therapist's death:

(1) The mental health counselor's or marriage and family therapist's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The mental health counselor's or marriage and family therapist's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

884.3(9) Nothing stated in this rule shall prohibit a mental health counselor or marriage and family therapist from conveying or transferring the client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

481—884.4(154C) Social work rules of conduct.

884.4(1) *Informed consent.*

a. A social worker will provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A social worker will use clear and understandable language to inform clients about the nature of available services, potential benefits and risks, limits and risks of confidentiality, alternative ways of receiving assistance, applicable fees, and involvement of and sharing information with third parties.

b. If a client has difficulty communicating, a social worker will attempt to ensure the client's comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible. A social worker will provide information in a manner that is understandable and culturally appropriate for the client. Clients will be given sufficient opportunity to ask questions and receive answers about social work services, including electronic delivery of services, if appropriate.

c. If a client lacks the capacity to provide informed consent, a social worker will protect the client's interests by seeking permission from an appropriate third party and will inform the client consistent with the client's level of understanding. In such instances, a social worker will seek to ensure that the third party acts in a manner consistent with the client's wishes and interests. A social worker will take reasonable steps to enhance the client's ability to give informed consent.

d. If a client is receiving services involuntarily, a social worker will provide information about the nature and extent of services and about the extent of the client's right to refuse services.

e. The provision of social work services to an individual in this state through any electronic means, including the Internet, telephone, or the Iowa communications network or any fiberoptic media, regardless of the location of the social worker, constitutes the practice of social work in the state of Iowa and will be subject to regulation in accordance with Iowa Code chapters 147 and 154C and the administrative rules of the board. A social worker who provides services via electronic media will inform recipients of the limitations and risks associated with such services.

f. A social worker will obtain a client's informed consent before audiotaping or videotaping the client or permitting a third party to observe services provided to the client.

g. A social worker will develop policies regarding the sharing, retention, and storage of digital and other electronic communications and records and will inform clients of applicable policies.

884.4(2) Competence.

a. A social worker will provide services and represent oneself as competent only within the boundaries of the social worker's education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

b. A social worker will provide services in substantive areas or use intervention techniques or approaches that are new only after engaging in appropriate study, training, consultation, and supervision from people who are competent in those areas, interventions, or techniques.

c. When generally recognized standards do not exist with respect to an emerging area of practice, a social worker will exercise careful judgment and take responsible steps, including appropriate education, research, training, consultation and supervision, to ensure competence and to protect clients from harm.

884.4(3) Supervision.

a. A social worker will exercise appropriate supervision over persons who practice under the supervision of the social worker.

b. A social worker who provides supervision or consultation will have the necessary knowledge and skill to supervise or consult appropriately and will do so only within the social worker's areas of knowledge and competence.

c. A social worker who provides supervision or consultation is responsible for setting clear, appropriate, and culturally sensitive boundaries.

d. A social worker will not engage in any dual or multiple relationships with supervisees if there is a risk of exploitation of or potential harm to the supervisee.

e. A social worker will not engage in sexual activities or sexual contact with a supervisee, student, trainee, or other colleague over whom the social worker exercises professional or supervisory authority.

f. A social worker will not employ, assign, or supervise an individual in the performance of services that require a license if the individual has not received a license to perform the services or if the individual has a suspended, revoked, lapsed, or inactive license.

g. A social worker will not practice without receiving supervision, as needed, given the social worker's level of practice, experience, and need.

884.4(4) *Privacy and confidentiality.*

a. A social worker will not disclose or be compelled to disclose client information unless required by law, except under the following limited circumstances:

(1) Situations in which the social worker determines that disclosure is necessary to prevent serious, foreseeable, and imminent harm to the client or another specific identifiable person.

(2) Situations in which the client waives the privilege by bringing criminal, civil, or administrative charges or action against a social worker.

(3) With the written informed consent of the client that explains to whom the client information will be disclosed or released and the purpose and time frame for the release of information. If the client is deceased or unable to provide informed consent, a social worker will obtain written consent from the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.

(4) To testify in a court or administrative hearing concerning matters pertaining to the welfare of children.

(5) To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

(6) Pursuant to a validly issued subpoena or court order.

In the event of a disclosure of information under any of the circumstances stated above, the social worker will disclose the least amount of confidential information necessary and will reveal only that information that is directly relevant to the purpose for which the disclosure is made.

b. Before the disclosure is made, on the basis of client consent or other legal basis, a social worker will inform the client, to the extent possible, about the disclosure of confidential information and the potential consequences of the disclosure.

c. A social worker will discuss with clients and other interested parties the nature of confidentiality and limitations of a client's right to confidentiality. A social worker will review with clients the circumstances under which confidential information may be requested and when disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

d. When a social worker provides counseling or psychosocial therapy services to families, couples, or groups, the social worker will seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others. A social worker will inform participants in family, couples, or group counseling or psychosocial therapy that the social worker cannot guarantee that all participants will honor such agreements.

e. A social worker will inform clients involved in family, couples, marital, or group counseling or psychosocial therapy of the policy of the social worker, the social worker's employer, and the agency concerning the social worker's disclosure of confidential information among the parties involved in the counseling or psychosocial therapy.

f. A social worker will not disclose confidential information to third-party payers unless a client has authorized such disclosure. A social worker will inform the client of the nature of the client information to be disclosed or released to the third-party payer.

g. A social worker will not discuss confidential information in any setting unless privacy can be ensured.

h. A social worker will protect the confidentiality of clients during legal proceedings to the extent permitted by law.

i. A social worker will protect the confidentiality of clients when the social worker is responding to requests from members of the media.

j. A social worker will protect the confidentiality of clients' written and electronic records and other sensitive information. A social worker will take reasonable steps to ensure that client records are stored in a secure location and that client records are not available to others who are not authorized to have access.

k. A social worker will take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones, telephone answering machines, and other electronic or computer technology.

l. A social worker will transfer or dispose of client records in a manner that protects client confidentiality and is consistent with federal and state statutes, rules and regulations and the guidelines of the social worker's employer or agency, if applicable.

m. A social worker will take reasonable precautions to protect client confidentiality in the event of the social worker's termination of practice, incapacitation, or death.

n. A social worker will not disclose identifying information when discussing a client for teaching or training purposes or in public presentations unless the client has consented to disclosure of confidential information.

o. A social worker will not disclose identifying information when discussing a client with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.

p. Consistent with the preceding standards, a social worker will protect the confidentiality of deceased clients.

884.4(5) *Recordkeeping.*

a. A social worker will maintain sufficient, timely, and accurate documentation in client records. A social worker's records will reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

b. A social worker who provides clinical services in any employment setting, including private practice, will maintain timely records that include subjective and objective data, assessment or diagnosis, a treatment plan, and any revisions to the assessment, diagnosis, or plan made during the course of treatment.

c. A social worker who provides clinical services will store records in accordance with state and federal statutes, rules, and regulations governing record retention and with the guidelines of the social worker's employer or agency, if applicable. If no other legal provisions govern record retention, a social worker will store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.

884.4(6) *Access to records.* A social worker who provides clinical services will:

a. Provide the client with reasonable access to records concerning the client. A social worker who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client will provide assistance in interpreting the records and consultation with the client regarding the records. A social worker may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request and the rationale for withholding some or all of a record should be documented in the client's records.

b. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

884.4(7) *Billing and fees.*

a. A social worker will bill only for services that have been provided.

b. A social worker will not accept goods or services from the client or a third party in exchange for the social worker's services.

c. A social worker will not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the social worker's employer or agency.

d. A social worker will not accept, give, offer or solicit a fee, commission, rebate, fee split, or other form of consideration for the referral of a client.

e. A social worker will not permit any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant to the social worker.

f. A social worker who provides clinical services will, when appropriate:

(1) Establish and maintain billing practices that accurately reflect the nature and extent of services provided.

(2) Inform the client of the fee for services at the initial session or meeting with the client. A social worker will provide a written payment arrangement to a client at the commencement of the professional relationship.

884.4(8) *Dual relationships and conflicts of interest.*

a. “Dual relationship” means that a social worker develops or assumes a secondary role with a client, including but not limited to a social relationship, an emotional relationship, an employment relationship, or a business association. For purposes of these rules, “dual relationship” does not include a sexual relationship. Standards governing sexual relationships are found in subrule 884.4(9).

(1) Current clients. A social worker will not engage in a dual relationship with a client.

(2) Former clients. A social worker will not engage in a dual relationship with a client within five years of the termination of the client relationship. A social worker will not engage in a dual relationship with a former client, regardless of the length of time elapsed since termination of the client relationship, when there is a risk of exploitation or potential harm to a client or former client.

(3) Unavoidable dual relationships with current and former clients. If a dual relationship with a current or former client is unavoidable, the social worker will take steps to protect the client and will be responsible for setting clear, appropriate, and culturally sensitive boundaries. The burden will be on the social worker to show that the dual relationship was unavoidable. In determining whether a dual relationship was unavoidable, the board will consider the size of the community, the nature of the relationship, and the risk of exploitation or harm to a client or former client.

b. Conflicts of interest.

(1) A social worker will avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

(2) A social worker will not continue in a professional relationship with a client when the social worker has become emotionally involved with the client to the extent that objectivity is no longer possible in providing the required professional services.

(3) A social worker will inform the client when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the client’s interests primary and protects the client’s interests to the greatest extent possible. In some cases, protecting the client’s interests may require termination of the professional relationship with proper referral of the client.

(4) A social worker will not take unfair advantage of any professional relationship or exploit others to further the social worker’s personal, religious, political, or business interests.

(5) A social worker who provides services to two or more people who have a relationship with each other will clarify with all parties, when appropriate and in a manner consistent with the confidentiality standards of subrule 884.4(4), which individuals will be considered clients and the nature of the social worker’s professional obligations to the various individuals who are receiving services. A social worker who anticipates a conflict of interest among the individuals receiving services or who anticipates having to perform in potentially conflicting roles will clarify, when appropriate and in a manner consistent with the confidentiality standards at subrule 884.4(4), the social worker’s role with the parties involved and take appropriate action to minimize any conflict of interest.

884.4(9) *Sexual relationships.*

a. Current clients. A social worker will not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. Former clients. A social worker will not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A social worker will not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or

sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A social worker will not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A social worker will not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A social worker will not provide clinical services to an individual with whom the social worker has had prior sexual contact.

884.4(10) *Physical contact.* A social worker will not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A social worker who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries that govern such contact.

884.4(11) *Termination of services.*

a. A social worker will terminate services when such services are no longer required or no longer serve the client's needs or interests.

b. A social worker will take reasonable steps to avoid abandoning clients who are still in need of services. A social worker will assist in making appropriate arrangements for continuation of services when necessary.

c. A social worker will not terminate services to pursue a social, financial, business, romantic, or sexual relationship with a client.

d. A social worker who anticipates the termination or interruption of services to a client will notify the client promptly and seek the transfer, referral, or continuation of services in relation to the client's needs and preferences.

e. A social worker who is leaving an employment setting will inform clients, to the extent possible given the nature of the termination of the employment relationship, of appropriate options for the continuation of services and of the benefits and risks of the options.

f. If the employer who terminates a social worker is also a social worker, the employer will provide notice to clients or allow the social worker the opportunity to provide notice to clients to ensure appropriate case closure or continuation or transfer of services if continued treatment is necessary.

g. A social worker who provides clinical services will comply with the following additional standards regarding termination of the client relationship:

(1) Termination of a client relationship will be documented in the client record. Absent written documentation of termination, the professional relationship will be considered ongoing.

(2) A social worker who practices in a fee-for-service setting may terminate services to a client who is not paying an overdue balance only if the financial contractual arrangements have been made clear to the client, if the client does not pose an imminent danger to self or others, and if the clinical and other consequences of the current nonpayment have been addressed and discussed with the client. Prior to terminating services under this subrule, a social worker will make reasonable efforts to collect the unpaid fees and will make appropriate referrals for the client.

884.4(12) *Misrepresentations, disclosure.* A social worker will not:

a. Knowingly make a materially false statement, or fail to disclose a relevant material fact, in a letter of reference, application, referral, report or other document.

b. Knowingly allow another person to use the social worker's license or credentials.

c. Knowingly aid or abet a person who is misrepresenting the person's professional credentials or competencies.

d. Impersonate another person or misrepresent an organizational affiliation in one's professional practice.

e. Further the application or make a recommendation for professional licensure of another person who is known by the social worker to be unqualified in respect to character, education, experience, or other relevant attribute.

- f.* Fail to notify the appropriate licensing authority of any human services professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.
- g.* Engage in professional activities, including advertising, that involve dishonesty, fraud, deceit, or misrepresentation.
- h.* Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, highest relevant degree, and licensure status of the provider of services.
- i.* Fail to distinguish, or purposely mislead the reader or listener, in public announcements, addresses, letters and reports as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.
- j.* Engage in direct solicitation of potential clients for pecuniary gain in a manner or in circumstances that constitute overreaching, undue influence, misrepresentation or invasion of privacy.
- k.* Fail to inform each client of any financial interests that might accrue to the social worker for referral to any other person or organization or for the use of tests, books, or apparatus.
- l.* Fail to inform each client that the client may be entitled to the same services from a public agency if the social worker is employed by that public agency and also offers services privately.
- m.* Make claims of professional superiority that cannot be substantiated by the social worker.
- n.* Guarantee that satisfaction or a cure will result from the performance of professional services.
- o.* Claim or use any secret or special method of treatment or techniques that the social worker refuses to divulge to professional colleagues.
- p.* Take credit for work not personally performed, whether by giving inaccurate information or failing to give accurate information.
- q.* Offer social work services or use the designation of licensed bachelor social worker, licensed master social worker, or licensed independent social worker; use the designations licensed baccalaureate social worker (LBSW), LMSW, or LISW or any other designation indicating licensure status; or hold oneself out as practicing at a certain level of licensure unless the social worker is duly licensed as such.
- r.* Permit another person to use the social worker's license for any purpose.
- s.* Practice outside the scope of a license.

884.4(13) *Impairments.*

- a.* A social worker will not:
 - (1) Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.
 - (2) Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the social worker to perform professional duties in a competent and safe manner.
 - (3) Practice in a professional relationship if involuntarily committed for treatment of mental illness, drug addiction, or alcoholism.
- b.* A social worker who self-reports an impairment or suspected impairment to the board may be eligible for confidential monitoring by the impaired practitioner review committee. The social worker will be provided the Impaired Practitioner Report form to initiate the process. Standards governing the impaired practitioner review committee may be found in 193—Chapter 12.

884.4(14) *Research.* If engaged in research, a social worker will:

- a.* Consider carefully the possible consequences for human beings participating in the research.
- b.* Protect each participant from unwarranted physical and mental harm.
- c.* Ensure that the consent of the participant is voluntary and informed and that each participant executes a signed informed consent form that details the nature of the research and any known possible consequences.
- d.* Treat information obtained as confidential.
- e.* Not knowingly report distorted, erroneous, or misleading information.

884.4(15) *Organization relationships and business practices.* A social worker will not:

- a.* Solicit the clients of colleagues or assume professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague.

- b.* Abandon an agency, organization, institution, or group practice without reasonable notice or under circumstances that seriously impair the delivery of professional care to clients.
- c.* Deliberately falsify client records.
- d.* Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client is adversely affected.
- e.* Delegate professional responsibilities to a person when the social worker knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

884.4(16) *Discrimination and sexual harassment.*

- a.* A social worker will not practice, condone, or facilitate discrimination against a client, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.
- b.* A social worker will not sexually harass a client, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

884.4(17) *General.* A social worker will not:

- a.* Practice without receiving supervision as needed, given the social worker's level of practice, experience, and need.
- b.* Practice a professional discipline without an appropriate license or after expiration of the required license.
- c.* Physically or verbally abuse a client or colleague.
- d.* Obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority; or sell, prescribe, give away, or administer controlled substances.

884.4(18) *Relationship between the board's rules of conduct and the National Association of Social Workers (NASW) Code of Ethics.* The NASW Code of Ethics is one resource for practitioners with respect to practice and ethical issues, and selected sections from the NASW Code of Ethics have been incorporated into the rules of conduct. A social worker's professional conduct is governed by the board's rules of conduct, and a social worker may be disciplined for violation of these rules.

884.4(19) *Electronic social work services.* A social worker will:

- a.* Assess the client's suitability and capacity for online and remote services at the point of the client's first contact and use professional judgment to determine whether an initial in-person, videoconference, or telephone consultation is warranted before undertaking electronic social work services.
- b.* Take reasonable steps to verify the client's identity, ability to consent to services, and location. When verification of a client's identity is not feasible, social workers will inform the client of the limitations of services that can be provided.
- c.* Continually assess a client's suitability for electronic social work services during the course of the professional relationship.

These rules are intended to implement Iowa Code chapters 154B, 154C and 154D.

ITEM 2. Rescind and reserve **481—Chapter 888.**

ITEM 3. Rescind and reserve **481—Chapter 891.**

ITEM 4. Rescind and reserve **481—Chapter 897.**

ARC 8954C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 962, “Continuing Education for Sign Language Interpreters and Transliterators,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 154E and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 154E and section 272C.2.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 154E and section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 962 sets forth continuing education and training requirements for sign language interpreters and transliterators. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Sign Language Interpreters and Transliterators reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 962.2(6) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant sign language interpreters and transliterators the ability to carry over up to 20 hours of continuing education earned in excess of the 40 hours required 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 20, 2024

No public comments were received regarding this chapter. No 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 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 March 11, 2025. Comments should be directed to:

Jessica O’Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352

Fax: 515.281.7969

Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025
2:40 to 3 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 962.2(6) and adopt the following **new** subrule in lieu thereof:

962.2(6) 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 20 hours from the previous renewal period.

ARC 8955C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to licensure of employers and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to adopt a new Chapter 965, "Licensure of Employers for Sign Language Interpreters and Translators," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 147, 154E and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154E and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 154E as amended by 2024 Iowa Acts, House File 2232. Chapter 965 sets forth minimum licensure requirements for employers of sign language interpreters and transliterators. Iowa residents, licensees, and employers benefit from the rules because they articulate the processes by which employers apply for licensure as employers of sign language

interpreters or transliterators in the state of Iowa, as directed in statute. This includes the processes for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that the employers employ individuals who have minimum competency. Requirements include the application process and examination requirements.

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 20, 2024

No public comments were received. The Board of Sign Language Interpreters and Translitterators has made changes to the information requested for interpreters and added that consumers will be provided information to file a complaint.

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 March 11, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025	6200 Park Avenue, Suite 100
2:40 to 3 p.m.	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 965:

CHAPTER 965
LICENSURE OF EMPLOYERS FOR SIGN LANGUAGE
INTERPRETERS AND TRANSLITERATORS

481—965.1(154E) Definition. For the purpose of these rules, the following definition will apply:

“Employer” means an employer that employs a person to provide interpreting or transliterating services to the employer's employees.

481—965.2(154E) Requirements for licensure.

965.2(1) A person employed by an employer licensed pursuant to this chapter to provide interpreting or transliterating services to the employer's employees is not required to be licensed pursuant to this chapter, but shall meet the requirements for licensure under Iowa Code section 154E.3. The interpreter will not interpret or transliterate prior to providing evidence of meeting licensure requirements to the employer.

965.2(2) The following criteria apply to licensure:

a. Employers will submit a completed online licensure application and pay the nonrefundable fee.
b. Employers will submit the following information pertaining to their employed interpreters or transliterators:

(1) First and last name.
(2) Address and telephone number.
(3) Proof of passing one of the examinations or proof of certification as outlined in 481—paragraph 961.2(1) *“b.”*

c. Required information for new interpreters or transliterators will be submitted by the employer to the board office within 30 days of hire.

d. Consumers will be provided information to file a complaint with the department of inspections, appeals, and licensing to address any concerns with sign language interpretation or transliteration provided.

481—965.3(154E) License renewal.

965.3(1) The biennial license renewal period for a license will begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

965.3(2) A licensee who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

965.3(3) A licensee applying for renewal will:

a. Provide attestation that the licensee's employees providing interpreting or transliterating services meet the continuing education requirements as provided in 481—Chapter 962; and

b. Submit the completed renewal application and renewal fee.

965.3(4) A two-year license will be issued after the requirements of this rule are met. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

965.3(5) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 481—subrule 507.18(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

965.3(6) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but cannot practice until the license is reactivated.

481—965.4(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee needs to:

965.4(1) Submit a completed online licensure application and pay the nonrefundable fee; and

965.4(2) Submit the following information pertaining to the licensee's employed interpreters or transliterators:

a. First and last name.

b. Address and phone number.

c. Proof of passing one of the examinations or proof of certification as outlined in 481—paragraph 961.2(1) "b."

481—965.5(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to employing sign language interpreters or transliterators in this state.

481—965.6(154E,272C) License 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 acts or offenses listed in 481—Chapter 504 or 481—Chapter 963.

These rules are intended to implement Iowa Code chapter 154E.

ARC 8948C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to licensure and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 980, "Licensure of Nursing Home Administrators," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 155 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 155 and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 155 and section 272C.2 as amended by 2024 Iowa Acts, House File 2013. This rulemaking extends the nursing home administrator provisional license from 12 months to 24 months. The intended benefit of this rulemaking is to ensure that licensees have additional time in order to meet full licensure requirements and allow the nursing home facilities to retain provisional administrators for longer periods of time.

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 20, 2024

No public comments were received. No 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 Board of Nursing Home Administrators 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 March 11, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025	6200 Park Avenue, Suite 100
2:20 to 2:40 p.m.	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend rule 481—980.5(155), introductory paragraph, as follows:

481—980.5(155) Provisional license. A provisional license may be issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator. A provisional license is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed ~~12~~ 24 months in an entire career. The ~~12~~ 24 months in service are not required to be consecutive; however, a new application is required for each appointment period. It is the

responsibility of the approved provisional administrator to maintain documentation of the actual dates the administrator serves in that capacity.

ITEM 2. Amend paragraph **980.5(2)“e”** as follows:

e. Provide evidence to establish that the provisional appointment will not exceed the lifetime maximum period of ~~12~~ 24 calendar months in duration. For any period in which the applicant previously served as a provisional administrator, written employment verification or a written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.

ARC 8949C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 981, “Continuing Education for Nursing Home Administration,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 155 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 155 and 272C.

Purpose and Summary

This proposed rulemaking implements Iowa Code chapter 155 and section 272C.2 as amended by 2024 Iowa Acts, House File 2686. Chapter 981 sets forth continuing education and training requirements for nursing home administrators. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Nursing Home Administrators reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 981.2(1) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant nursing home administrators the ability to carry over up to 20 hours of continuing education earned in excess of the 40 hours required 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 20, 2024

Leading Age Iowa made a public comment stating that adding an effective date of the amendment would clarify for which renewal period this would begin. The Board did not make this change since House File 2686 has already been made effective.

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 March 11, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

March 11, 2025	6200 Park Avenue, Suite 100
2:20 to 2:40 p.m.	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 the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 981.2(1) as follows:

981.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on January 1 of each even-numbered year and ending on December 31 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state will be required to complete a minimum of 40 hours of continuing education. ~~Continuing education hours do not carry over. 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 20 hours from the previous renewal period.~~

ARC 8904C**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action****Proposing rulemaking related to declaratory orders
and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to rescind Chapter 16, “Declaratory Orders,” and to adopt new Chapter 16, “Petition for Declaratory Order,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 16 relating to petitions for declaratory order and to adopt a new chapter in lieu thereof. The new chapter will remove language that repeats statute or is otherwise unnecessary.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 30, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 1963 Bell Avenue, Suite 200
 11 to 11:15 a.m. Des Moines, Iowa
 Registration information for online participation
 may be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

March 13, 2025 1963 Bell Avenue, Suite 200
 2 to 2:15 p.m. Des Moines, Iowa
 Registration information for online participation
 may be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority 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 265—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
 PETITION FOR DECLARATORY ORDER

265—16.1(17A) Petition for declaratory order. Any person may file a petition with the authority for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the authority at Iowa Finance Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, Attn: Legal Counsel. Petitions may also be delivered by email to an email address supplied by the authority's legal counsel. A petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the authority an extra copy for this purpose. The authority will accept only typewritten petitions that substantially conform to the following form:

BEFORE THE
 IOWA FINANCE AUTHORITY

Petition by (Name of Petitioner)
 for a Declaratory Order on
 (Cite provisions of law involved).



PETITION FOR
 DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.

4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.

5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.

6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.

7. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by, or interested in, the questions presented in the petition.

8. Any request by the petitioner for a meeting provided for by rule 265—16.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

265—16.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the authority shall give notice of the petition to all persons not served by the petitioner pursuant to rule 265—16.6(17A) to whom notice is required by any provision of law. The authority may give notice to any other persons. The authority 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 authority attesting that notice has been provided.

265—16.3(17A) Intervention.

16.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order may intervene in a proceeding for a declaratory order.

16.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the authority.

16.3(3) A petition for intervention shall be filed at the address or email address indicated in rule 265—16.1(17A). A petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. The authority will accept only typewritten petitions that substantially conform to the following form:

BEFORE THE
IOWA FINANCE AUTHORITY

Petition by (Name of Original
Petitioner) for a Declaratory Order on
(Cite provisions of law cited in original
petition).

}

PETITION FOR
INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.

6. Whether the intervenor consents to be bound by the determination of the matters presented by the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and the intervenor's representative, and a statement indicating the person to whom communications should be directed.

265—16.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The authority may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

265—16.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the address or email address indicated in rule 265—16.1(17A).

265—16.6(17A) Service and filing of petitions and other documents.

16.6(1) Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing with the authority. The party filing a document is responsible for service on all parties and other affected or interested persons.

16.6(2) All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed at the address or email address indicated in rule 265—16.1(17A). All documents are considered filed upon receipt.

265—16.7(17A) Consideration. The authority may schedule a brief and informal meeting between the original petitioner, all intervenors, and authority staff to discuss the questions raised. The authority may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the authority by any person.

265—16.8(17A) Action on petition.

16.8(1) The authority shall take action on the petition in the time frame established by Iowa Code section 17A.9(5).

16.8(2) The date of issuance of an order or of a refusal to issue an order is the date of mailing of the order or refusal or date of delivery if service is by other means unless another date is specified in the order.

265—16.9(17A) Refusal to issue order.

16.9(1) The authority shall not issue a declaratory order if prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

- a.* The petition does not substantially comply with the form indicated in rule 265—16.1(17A).
- b.* The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the authority to issue an order.
- c.* The authority does not have jurisdiction over the questions presented in the petition.
- d.* The questions presented by the petition are also presented in a current rulemaking, contested case, or other authority or judicial proceeding, that may definitively resolve them.
- e.* The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f.* The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
- g.* There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

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

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

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

16.9(2) If the authority refuses to issue a declaratory order, the authority must indicate the specific grounds for the refusal. Refusal to issue a declaratory order constitutes final agency action on the petition.

16.9(3) The authority's refusal to issue a declaratory order pursuant to this provision does not preclude a petitioner from filing a new petition that seeks to eliminate the grounds for the authority's refusal to issue an order.

265—16.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

265—16.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be provided promptly to the original petitioner and all intervenors.

265—16.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the authority, the petitioner, and any intervenors who consent to be bound 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 authority. The issuance of a declaratory order constitutes final agency action on the petition.

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

ARC 8850C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to definitions and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 2, "Definitions," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 543B and 17A.

Purpose and Summary

These proposed amendments update definitions relating to the practice of real estate. This rule is proposed to be amended to support law changes enacted by 2022 Iowa Acts, House File 2324, and 2024 Iowa Acts, House Files 2326, 2394, and 2291.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on March 11, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
	Via videoconference call:
	meet.google.com/zqb-qnex-nyz
	Or dial: 510.766.1166
	PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend rule **193E—2.1(543B)**, definitions of “Customer” and “Ministerial acts,” as follows:

~~“Customer” means a consumer of real estate services in connection with a real estate transaction who is not being represented by the licensee, but for whom the licensee may perform ministerial acts. A customer may be a client of another broker, may have yet to decide whether or not to be represented by any broker, or may have chosen not to be represented by any broker. means the same as defined in Iowa Code section 543.5(10).~~

“Ministerial acts” means those acts that a licensee may perform for a consumer that are informative in nature and do not rise to the level of specific assistance on behalf of a consumer. For purposes of these rules, ministerial acts include, but are not limited to, the following:

1. Responding to general telephone inquiries by consumers as to the availability and pricing of brokerage services;
2. Responding to general telephone inquiries from a consumer concerning the price, facts and features, or location of property;
3. Attending an open house and responding to general questions from a consumer about the facts and features of the property;
4. Setting an appointment to view property;
5. Responding to general questions of consumers walking into a licensee's office concerning brokerage services offered or the facts and features of particular properties;
6. Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;
7. Describing the facts and features of a property or the property's condition in response to a consumer's inquiry;
- ~~8. Completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client;~~
- ~~9. Showing a client through a property being sold by an owner; or~~
- ~~10. Referring a person to another broker or service provider.~~
8. Referring a person to another broker or service provider; or
9. Listing a broker providing physical or virtual access to a property to an unrepresented customer in which the listing broker has a brokerage agreement with a seller to the property.

ITEM 2. Adopt the following **new** definitions of “Agency disclosure,” “Compensation,” “Real estate team,” “Representative,” “Showing,” “Wholesaler” and “Wholesaling” in rule **193E—2.1(543B)**:

“Agency disclosure” means the same as defined in Iowa Code section 543B.5(2).

“Compensation” means payment to a broker or licensee for real estate services performed.

“Real estate team” means two or more licensees assigned to the same broker, working together to provide real estate brokerage services and representing themselves to the public as a team.

“Representative” means a person or entity representing the interests of the client, on the client's behalf, but that is not the agent or broker of the client.

“Showing” means the act of a licensee providing a client physical or virtual access to a property that is being sold by a seller.

“Wholesaler” means a licensee, or a person represented by a licensee, who acquires an equitable interest, but not legal title, in a residential property for the purpose of selling the equitable interest to a buyer.

“Wholesaling” means the practice of a wholesaler entering into an assignable contract with an owner of residential property for the purpose of marketing and selling the equitable interest of the residential property to another person.

ITEM 3. Rescind the definition of “Subagent” in rule **193E—2.1(543B)**.

ARC 8852C**REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to broker license and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to amend Chapter 3, “Broker License,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 3 sets forth continuing education requirements for real estate licensees. The intended benefit of this rulemaking is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Commission reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrules 3.4(1) and 3.4(3) are proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant real estate licensees the ability to carry over up to 18 hours of continuing education earned in excess of the 36 hours required every three years.

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 9, 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 Commission 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 Commission no later than 4:30 p.m. on February 25, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
	Via videoconference call:
	meet.google.com/zqb-qnex-nyz
	Or dial: 510.766.1166
	PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 3.4(1) as follows:

3.4(1) To renew a license in active status, each broker or broker associate completes a minimum of 36 hours of approved programs, courses or activities. ~~The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license term.~~ 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 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course or the four-hour ethics course.

ITEM 2. Amend subrule 3.4(3) as follows:

3.4(3) A license may be renewed in inactive status without the completion of continuing education. Prior to reactivating a license ~~which~~ that has been issued inactive due to the licensee's failure to submit evidence of continuing education, the licensee submits an application to reactivate to active status with evidence that all deficient continuing education hours have been completed. ~~The maximum continuing education hours will not exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.~~ 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 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course or the four-hour ethics course.

ARC 8851C**REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to salesperson license
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to amend Chapter 4, “Salesperson License,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 3 sets forth continuing education requirements for real estate licensees. The intended benefit of this rulemaking is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Commission reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrules 4.4(1) and 4.4(3) are proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant real estate licensees the ability to carry over up to 18 hours of continuing education earned in excess of the 36 hours required every three years.

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 9, 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 Commission 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 Commission no later than 4:30 p.m. on February 25, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
	Via videoconference call:
	meet.google.com/zqb-qnex-nyz
	Or dial: 510.766.1166
	PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 4.4(1) as follows:

4.4(1) As a requirement of license renewal in active status, each salesperson completes a minimum of 36 hours of approved programs, courses or activities ~~during the three calendar years of the license term, and continuing education hours cannot be carried over to another license term.~~ 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 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course or the four-hour ethics course.

ITEM 2. Amend subrule 4.4(3) as follows:

4.4(3) A salesperson license may be renewed to inactive status without completion of continuing education. Prior to reactivating a license ~~which that~~ has been issued inactive due to failure to submit evidence of continuing education, the licensee must submit evidence that all deficient continuing education hours have been completed. ~~The maximum continuing education hours shall not exceed the prescribed number of hours of one license renewal period and must be completed during the three calendar years preceding activation of the license.~~ 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 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course or the four-hour ethics course.

ARC 8853C**REAL ESTATE COMMISSION[193E]****Notice of Intended Action****Proposing rulemaking related to offices and management
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to amend Chapter 7, “Offices and Management,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House Files 2326, 2394, and 2291. The amendments set forth supporting guidance to licensees regarding wholesaling, unlicensed professional permitted acts, and supporting guidance to real estate teams regarding advertising and licensing.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on February 25, 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

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

March 11, 2025
1:30 to 2 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa
Via videoconference call:
meet.google.com/zqb-qnex-nyz
Or dial: 510.766.1166
PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 7.3(4) as follows:

7.3(4) All ~~listings~~ brokerage and property management agreements are canceled by the broker whose license is suspended or revoked upon receipt of the order of revocation or suspension and prior to the effective date of the order.

a. The seller or landlord, or buyer or tenant, are advised that the seller or landlord, or buyer or tenant, may enter into a ~~listing or~~ brokerage agreement with another broker of choice.

b. A broker whose license is suspended or revoked cannot sell or assign ~~listings~~ brokerage or management agreements to another broker without the written consent of the ~~owner of the property~~ client, and any sale or assignment of ~~listings~~ brokerage or management agreements are completed prior to the effective date of the order.

ITEM 2. Amend subrule 7.4(3) as follows:

7.4(3) An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer or homebuilder, obligates the consumer or homebuilder to pay a ~~commission~~ compensation on the value of the house to be constructed on the lot.

ITEM 3. Amend subrule 7.4(6) as follows:

7.4(6) Any arrangement in which a real estate licensee enters into an agreement with a mortgage broker, bank, savings and loan, or other financial institution pursuant to which the making of a loan is directly or indirectly conditioned upon payment of a ~~real estate commission~~ compensation to the real estate licensee.

ITEM 4. Amend paragraph 7.9(1)“c” as follows:

c. An affiliated business arrangement does not include an arrangement in which a real estate licensee, or an associate of a real estate licensee, gives or pays an undisclosed ~~commission~~ compensation in a transaction to any other licensee for a referral to provide real estate brokerage services, including franchise affiliates, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service. Referral fees or ~~commissions~~ compensation paid by a licensee to another licensee under these conditions are exempted from the disclosure criteria.

ITEM 5. Amend paragraph 7.11(2)“b” as follows:

b. While this rule does not obligate that a licensee list property owned by the licensee with the employing or affiliated broker, the broker may obligate as a condition of employment or affiliation that the licensee list the property with the employing or affiliated broker or pay ~~a commission~~ compensation.

ITEM 6. Amend rule 193E—7.12(543B) as follows:

193E—7.12(543B) ~~Commission~~ Compensation controversies. The commission will not and is not authorized by law to consider or conduct hearings involving disputes over fees or ~~commissions~~ compensation between cooperating brokers, salespersons, and other brokers.

7.12(1) A former employing or affiliated broker may pay ~~a commission~~ compensation directly to a broker associate or salesperson who is presently assigned to another broker or firm, or whose license is inactive, expired, suspended or revoked, only if the ~~commission~~ compensation was earned while the broker associate or salesperson was actively licensed and assigned to the former broker. Whether or not a ~~commission~~ compensation was earned while the broker associate or salesperson was licensed with the former broker depends upon the licensee’s written agreement with the former broker. The commission will not determine whether a ~~commission~~ compensation is earned or whether a ~~commission~~ compensation is to be paid.

7.12(2) If the licensee is presently assigned to another broker or firm, the former broker does not pay the ~~commission~~ compensation to the new employing or affiliated broker or firm.

7.12(3) An Iowa real estate broker may pay ~~a commission~~ compensation or a fee to or receive a ~~commission~~ compensation or a fee from a nonresident broker who is actively licensed in the broker’s resident state but not licensed in Iowa. The nonresident broker takes no part in the listing, showing, negotiating offers or any other functions of a broker in Iowa unless actively licensed in Iowa.

7.12(4) No change.

ITEM 7. Amend rule 193E—7.13(543B) as follows:

193E—7.13(543B) Support personnel for licensees; permitted and barred activities. Whenever a licensee affiliated with a broker engages support personnel to assist the affiliated licensee in the activities of the real estate brokerage business, both the firm or ~~sponsoring~~ designated broker and the affiliated licensee are responsible for supervising the acts or activities of the support personnel; however, the affiliated licensee has the primary responsibility for supervision subject to Iowa Code section 543B.7A. Unless the support person holds a real estate license, the support person cannot perform any activities, duties, or tasks of a real estate licensee as identified in Iowa Code sections 543B.3 and 543B.6 and may perform only ministerial duties that do not need discretion or the exercise of the licensee’s own judgment. Personal assistants are considered support personnel.

7.13(1) and 7.13(2) No change.

7.13(3) Broker supervision and improper use of license and office. While individual and designated brokers are responsible for supervising the real estate-related activities of all support personnel, an affiliated licensee employing a personal assistant has the primary responsibility for supervision of that personal assistant. A broker is not held responsible for inadequate supervision if:

a. The unlicensed person violated a provision of Iowa Code chapter 543B or of commission rules that is in conflict with the ~~supervising~~ designated broker’s specific written policies or instructions;

b. to e. No change.

7.13(4) In order to provide reasonable assistance to licensees and their support personnel, but without defining every permitted activity, the commission has identified certain tasks that unlicensed support personnel under the direct supervision of a licensee affiliated with a firm or broker may not perform.

a. Permitted activities include, but are not limited to; the following:

(1)	Answer the telephone, provide information about a listing to licensees, and forward calls from the public to a licensee;
(2)	Submit data on listings to a multiple listing service;

(3)	Check on the status of loan commitments after a contract has been negotiated;
(4)	Assemble documents for closings;
(5)	Secure documents that are public information from the courthouse and other sources available to the public;
(6)	Have keys made for company listings;
(7)	Write advertisements and promotional materials for the approval of the licensee and <u>supervising designated broker</u> ;
(8)	Place advertisements in magazines, newspapers, websites, social media, and other media as directed by the <u>supervising designated broker</u> ;
(9)	Record and deposit earnest money, security deposits, and advance rents, and perform other bookkeeping duties;
(10)	Type contract forms as directed by the licensee or the <u>supervising designated broker</u> ;
(11)	Monitor personnel files;
(12)	Compute ~~commission~~ <u>compensation</u> checks;
(13)	Place signs on property;
(14)	Order items of routine repair as directed by a licensee;
(15)	Act as courier for such purposes as delivering documents or picking up keys. The licensee remains responsible for ensuring delivery of all executed documents obligated by Iowa law and commission rules;
(16)	Schedule appointments with the seller or the seller's agent in order for a licensee to show a listed property;
(17)	Arrange dates and times for inspections;
(18)	Arrange dates and times for the mortgage application, the preclosing walk-through, and the closing;
(19)	Schedule an open house;
(20)	Perform physical maintenance on a property; ~~or~~
(21)	Accompany a licensee to an open house or a showing and perform the following functions as a host or hostess: 1. Open the door and greet prospects as they arrive; 2. Hand out or distribute prepared printed material; 3. Have prospects sign a register or guest book to record names, addresses and telephone numbers; 4. Accompany prospects through the home for security purposes and not answer any questions pertaining to the material aspects of the house or its price and terms;.
(22)	Independently host open houses for tours attended by licensed brokers and salespersons only;.
(23)	<u>Advertise and list property for rent;</u>
(24)	<u>Show property for rent;</u>
(25)	<u>Collect rent and deposits for the rental of property; or</u>
(26)	<u>Complete and execute form agreements for the rental of property.</u>

b. Barred activities include; but are not limited to; the following:

(1)	Making cold calls by telephone or in person or otherwise contacting the public for the purpose of securing prospects for listings, ~~leasing, sale, or exchanges, or property management~~ ;
(2)	Independently hosting open houses, kiosks, home show booths, or fairs attended by the public;
(3)	Preparing promotion materials or advertisements without the review and approval of licensee and <u>supervising designated broker</u> ;
(4)	Showing property <u>for sale</u> independently;
(5)	Answering any questions on title, financing, or closings (other than time and place);
(6)	Answering any questions regarding a listing except for information on price and amenities expressly provided in writing by the licensee;
(7)	Discussing or explaining a contract, listing, ~~lease~~ , agreement, or other real estate document with anyone outside the firm;
(8)	Negotiating or agreeing to any ~~commission, commission split compensation~~ , management fee, or referral fee on behalf of a licensee, seller, or buyer with another licensee, client, or customer;
(9)	Discussing with the owner of real property the terms and conditions of the real property offered for sale or lease;
(10)	Collecting or holding deposit moneys, ~~rent~~ , other moneys or anything of value received from the owner of real property or from a prospective buyer ~~or tenant~~ ;

(11)	Providing owners of real property or prospective buyers ~~or tenants~~ with any advice, recommendations or suggestions as to the sale, purchase, <u>or exchange</u> , ~~rental, or leasing~~ of real property that is listed, to be listed, or currently available for sale ~~or lease~~ ; or
(12)	Holding one's self out in any manner, orally or in writing, as being licensed or affiliated with a particular firm or real estate broker as a licensee.

ITEM 8. Amend rule 193E—7.14(543B) as follows:

193E—7.14(543B) Information provided by nonlicensed support personnel limited. Nonlicensed support personnel may, on behalf of the employer licensee, provide information concerning the sale, exchange, purchase, ~~rental, lease~~, or advertising of real estate only to another licensee. Support personnel provides information only to another licensee that has been provided to the personnel by the employer licensee either verbally or in writing.

ITEM 9. Amend subrule 7.15(3) as follows:

7.15(3) A ~~customer's~~ client's agent or representative cannot negotiate directly or indirectly with a seller or buyer, or landlord or tenant, if the agent knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has a written unexpired ~~listing or~~ brokerage agreement for services on an exclusive basis.

ITEM 10. Amend subrule 7.15(4) as follows:

7.15(4) A listing agent cannot refuse to permit a ~~customer's~~ client's agent or representative to be present at any step in a real estate transaction, including, but not limited to, viewing a property, seeking information about a property, or negotiating directly or indirectly with an agent about a property listed by such agent, ~~and no an agent refuses cannot refuse~~ to show a property listed by that agent or otherwise deal with a represented ~~customer~~ client who requests that the ~~customer's~~ client's agent or representative be present at any step in the real estate transaction, except as provided in this subrule.

a. The ~~customer's~~ client's agent or representative does not have the right to be present at any discussion of confidential matters or evaluation of the offer by the seller and the listing agent.

b. Unless the seller provides written instructions to the listing agent to exclude a ~~customer's~~ client's agent or representative from being present when the offer is presented, it is not unlawful for the ~~customer's~~ client's agent or representative to be present.

c. Compliance with this rule does not need or obligate a listing broker to ~~share split~~ any commission compensation or to otherwise compensate a ~~customer's~~ client's agent.

ARC 8854C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to closing a real estate business and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 8, “Closing a Real Estate Business,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543B.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House File 2291. The amendment sets forth supporting guidance to licensees regarding brokerage agreements.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on February 25, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
	Via videoconference call:
	meet.google.com/zqb-qnex-nyz
	Or dial: 510.766.1166
	PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 8.1(3) as follows:

8.1(3) Notifies all ~~listing and management~~ clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the firm will close. All ~~listing and management~~ clients are advised in writing that they may enter into a new listing brokerage or management agreement with the broker of their choice;

ARC 8855C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to advertising and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 10, "Advertising," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2326.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House File 2326. The amendments set forth supporting guidance to licensees regarding their advertising and supporting guidance to real estate teams regarding advertising and licensing.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on February 25, 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

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

March 11, 2025 1:30 to 2 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via videoconference call: meet.google.com/zqb-qnex-nyz Or dial: 510.766.1166 PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend rule 193E—10.1(543B), introductory paragraph, as follows:

193E—10.1(543B) Advertising. A broker cannot advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer is being made by a private party not engaged in the real estate business, and no real estate advertisement can show only a post office box number, telephone number or street address. Every licensee, when advertising real estate, will use the licensed business name or the name under which the broker is licensed; and affirmatively and unmistakably indicate that the party is a real estate licensee and not a private party. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission; or clearly reveal in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name. An individual licensee or real estate team that is not a principal broker or firm is not required to register a trade name. An individual licensee or real estate team shall conspicuously display the name of the brokerage immediately preceding or immediately following the individual licensee's name or real estate team name in any advertising or information made available to the public. For purposes of this rule, "conspicuously display" shall mean advertisement that, when presented, a reasonable person would be able to identify or observe.

ITEM 2. Amend paragraph **10.1(4)“a”** as follows:

a. ~~The~~ Conspicuously display, in a font size that is readable to a reasonably prudent person, the firm or tradename as registered with the commission (abbreviations are not permitted) immediately preceding or immediately following the individual licensee’s name or real estate team name;

ITEM 3. Amend paragraph **10.1(5)“b”** as follows:

b. ~~The~~ Conspicuously display the name of the firm or trade name with which the licensee is affiliated as that firm name is registered with the commission (abbreviations are not permitted) immediately preceding or immediately following the individual licensee’s name or real estate team name;

ARC 8856C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to brokerage agreements and listings and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 11, “Brokerage Agreements and Listings,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2291.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House File 2291. The amendments set forth supporting guidance to licensees regarding brokerage agreements.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on February 25, 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

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

March 11, 2025 1:30 to 2 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Via videoconference call: meet.google.com/zqb-qnex-nyz Or dial: 510.766.1166 PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend rule 193E—11.1(543B) as follows:

193E—11.1(543B) Listing ~~brokerage~~ Brokerage agreements. All listing brokerage agreements are will be in writing, ~~properly identifying the property and containing all of the terms and conditions under which the property is to be sold, including the price, the commission~~ amount of compensation to be paid with disclosure that states compensation is negotiable and not set by law, the signatures of all parties concerned and a definite expiration date not to exceed one calendar year in length from the effective date, for properties with at least one but not more than four dwelling units. ~~The agreement contains no provision requiring a party signing the listing to notify the broker of the listing party's intention to cancel the listing after such definite expiration date.~~ An exclusive agency brokerage agreement or exclusive right to sell listing agreement clearly indicates that it is such an agreement. A legible copy of every written listing brokerage agreement or other written authorization is given to the ~~owner of the property~~ client by a licensee as soon as the signature of the ~~owner~~ client is obtained.

1. A listing agreement should properly identify the property and contain the terms and conditions under which the property is to be sold, including but not limited to the list price and any compensation to be earned from the sale of the property.

2. A buyer representation agreement is required for all properties. Open houses or auctions are exempt from usage of a buyer representation agreement.

11.1(1) A licensee cannot solicit or enter into a ~~listing or~~ brokerage agreement with ~~an owner a~~ buyer or seller if the licensee knows or has reason to know that the ~~owner buyer or seller~~ has a written unexpired exclusive ~~agency~~ brokerage agreement or exclusive right to sell listing agreement to the property with another broker, unless the ~~owner~~ buyer or seller initiates the discussion and the licensee has not directly or indirectly solicited the ~~listing or~~ brokerage agreement.

a. However, if the ~~owner~~ buyer or seller initiates the discussion, the licensee may negotiate and enter into a ~~listing or~~ brokerage agreement that will take effect after the expiration of the current listing brokerage agreement.

b. If the ~~owner~~ buyer or seller initiates the discussion, the licensee may inform the ~~owner~~ buyer or seller that the ~~owner~~ buyer or seller needs to allow the current listing brokerage agreement to expire or obtain a mutually acceptable cancellation from the ~~listing~~ broker before any further discussion can take place.

11.1(2) A real estate licensee cannot negotiate a sale, exchange, or lease of real property directly with ~~an owner a~~ seller if it is known that the ~~owner~~ seller has a written unexpired contract in connection with the property ~~which that~~ grants an exclusive right to sell to another broker, ~~or which grants an exclusive agency to another broker.~~

11.1(3) A real estate licensee cannot negotiate a sale, purchase, exchange, or lease of real property directly with a buyer or seller if it is known that the buyer or seller has a written unexpired exclusive brokerage agreement with another broker.

~~11.1(3) 11.1(4)~~ A listing agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement. All brokerage agreements are written and cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement unless the terms of the agreement state otherwise. Upon termination of association or employment with the principal broker, the affiliated broker associate or salesperson cannot solicit, take, or use any written brokerage agreements secured during the association or employment. Said brokerage agreements remain the property of the principal broker and may be canceled only by the broker and the client.

~~11.1(4) 11.1(5)~~ Net listing barred. No licensee makes or enters into a net listing agreement for the sale of real property or any interest in real property. A net listing agreement is an agreement that specifies a net sale price to be received by the owner with the excess over that price to be received by the broker as commission compensation. The taking of a net listing is unprofessional conduct and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

ITEM 2. Rescind rule ~~193E—11.2(543B).~~

ITEM 3. Renumber rules ~~193E—11.3(543B)~~ to ~~193E—11.5(543B)~~ as ~~193E—11.2(543B)~~ to ~~193E—11.4(543B).~~

ITEM 4. Amend renumbered rule ~~193E—11.2(543B)~~ as follows:

193E—11.2(543B) Brokerage agreements Cooperation, compensation, and compliance. ~~All brokerage agreements are written and cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement, unless the terms of the agreement state otherwise. Upon termination of association or employment with the principal broker, the affiliated broker associate or salesperson cannot take or use any written brokerage agreements secured during the association or employment. Said brokerage agreements remain the property of the principal broker and may be canceled only by the broker and the client.~~

11.2(1) Every written brokerage agreement includes, at a minimum, the criteria set forth in Iowa Code section ~~543B.57~~ 543B.56A and the following provisions:

a. ~~All brokerage~~ Brokerage agreements will contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages or the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to ~~share~~ split the compensation with

other brokerages and any other method for negotiating compensation for another party's broker. Such disclosure serves to inform the client of any policy that would limit the participation of any other brokerage; and

b. All ~~listing contracts and all brokerage agency contracts~~ agreements comply with Iowa real estate law and commission rules, including, but not limited to, rules 193E—11.1(543B) and 193E—11.43(543B) and 193E—Chapter 15.

~~11.2(2)~~ No licensee makes or enters into a brokerage agreement that specifies a net sale, lease, rental, or exchange price to be received by an owner and the excess to be received by the licensee as a commission.

~~11.2(3)~~ The taking of a net brokerage agreement is unprofessional conduct and a practice that is harmful or detrimental to the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

~~11.2(4)~~ 11.2(2) Duration of relationship. The relationships commence at the time of the brokerage agreement and continue until closing of the transaction or performance or completion of the agreement by which the broker was engaged within the term of the agreement and not exceeding 12 months. If the transaction does not close, or the agreement for which the broker was engaged is not performed or completed for any reason, the relationship ends at the earlier of the following:

- a. ~~Any~~ The date of expiration agreed upon by the parties; or
- b. Any termination by written agreement of the parties.

~~11.2(5)~~ 11.2(3) Obligation terminated. In addition to any continuing duty or obligation provided in the written agreement or pursuant to Iowa law and commission rules, a broker or brokerage engaged as a seller's or landlord's agent, buyer's or tenant's agent, ~~subagent~~, or dual agent and affiliated licensees have the duty after termination, expiration, completion, or performance of the brokerage agreement to:

- a. and b. No change.

~~11.2(6)~~ 11.2(4) Compensation. In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or the ~~sharing or splitting of a commission or compensation between brokers~~.

- a. No change.
- b. Written permission of the client is needed as follows:

(1) A seller's or landlord's agent may ~~share the commission or other split~~ split compensation paid by such seller or landlord with another broker, with the written consent of the seller or landlord.

(2) A buyer's or tenant's agent may ~~share the commission or other split~~ split compensation paid by such buyer or tenant with another broker, with the written consent of the buyer or tenant.

(3) Without the written approval of the client, a seller's or landlord's agent cannot propose to the buyer's or tenant's agent that such seller's or landlord's agent may be compensated by ~~sharing~~ splitting compensation paid by such buyer or tenant.

(4) Without the written approval of the client, a buyer's or tenant's agent cannot propose to the seller's or landlord's agent that such buyer's or tenant's agent may be compensated by ~~sharing~~ splitting compensation paid by such seller or landlord.

- c. No change.

d. A licensee cannot accept, receive or charge an undisclosed ~~commission~~ compensation for a transaction.

e. A licensee cannot give or pay an undisclosed ~~commission~~ compensation to any other licensee for a transaction, except payment for referrals to other licensees, including franchise affiliates, to provide real estate brokerage services, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service.

- f. No change.

g. A licensee cannot give any undisclosed credit against ~~commission~~ compensation due from a client or licensee to any party to a transaction.

h. A licensee cannot accept, receive or charge any undisclosed payments for any services provided by any third party to any party to a transaction including, but not limited to, payments for procuring insurance or for conducting a property inspection related to the transaction.

i. to k. No change.

~~11.2(7)~~ Solicitation of brokerage agreements. A licensee cannot advise, counsel, or solicit a brokerage agreement from a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has contracted with another broker for the same brokerage services on an exclusive basis.

~~a.~~ This rule does not preclude a broker from entering into a brokerage agreement with a seller or buyer, or landlord or tenant, when the initial contact is initiated by the seller or buyer, or landlord or tenant, and the licensee has not directly or indirectly solicited the discussion, provided the brokerage agreement does not become effective until the expiration or release of the current brokerage agreement.

~~b.~~ A brokerage agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

~~11.2(8)~~ 11.2(5) Any ~~commission~~ compensation or fee in any brokerage agreement is fully negotiable among the parties to that brokerage agreement. Once the parties to a brokerage agreement have agreed to a ~~commission~~ compensation or fee, no licensee other than a party to that brokerage agreement attempts to alter, modify, or change or induce another person to alter, modify, or change a ~~commission~~ compensation or fee that has previously been agreed upon without the prior written consent of the parties to that brokerage agreement.

~~11.2(9)~~ 11.2(6) The seller or landlord may, in the brokerage agreement, authorize the seller's or landlord's broker to disburse part of the broker's compensation to other brokers, including a buyer's or tenant's broker solely representing the buyer or tenant.

~~11.2(10)~~ 11.2(7) Nothing contained in this rule shall obligate any buyer or tenant or seller or landlord to pay compensation to a licensee representing the buyer or tenant or seller or landlord in a real estate transaction unless the buyer or tenant or seller or landlord has entered into a written brokerage agreement with the broker specifying the compensation terms and conditions, in accordance with Iowa real estate license law and commission rules.

ITEM 5. Amend renumbered rule 193E—11.3(543B) as follows:

193E—11.3(543B) Terms or conditions. A licensee cannot write, prepare or otherwise use a contract containing terms or conditions that would violate real estate laws in Iowa Code chapter 543B or commission rules. The broker is responsible to ensure that all preprinted documents and forms used are in compliance with these rules.

~~The broker is responsible to ensure that all preprinted documents and forms used are in compliance with these rules.~~

ITEM 6. Adopt the following new rule 193E—11.5(543B):

193E—11.5(543B) Enforcing a protective clause. To enforce a protective clause beyond the expiration of an exclusive brokerage agreement, there must be a provision for the protective clause in the brokerage agreement that establishes a definite protection period. In writing and prior to the expiration of the brokerage agreement, the broker furnishes to the party the names and available contact information of persons to whom the property was presented or a list of each property that was shown during the active term of the brokerage agreement and for whom protection is sought. Delivery is by personal or electronic service with written acknowledgment of receipt, or by regular mail or certified mail postmarked prior to the expiration of the brokerage agreement, return receipt requested.

ITEM 7. Amend subrules 11.6(1) and 11.6(2) as follows:

11.6(1) A licensee cannot pay a ~~commission~~ compensation, any part of a ~~commission~~ compensation, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that needs a real estate license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that needs a real estate license, are barred.

11.6(2) In a brokerage agreement, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the ~~commission~~ compensation earned to an unlicensed seller,

landlord, buyer, or tenant that is a principal party to the brokerage agreement. This will be deemed a reduction in the amount of the earned ~~commission~~ compensation.

ARC 8857C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to disclosure of relationships and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 12, “Disclosure of Relationships,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543B as amended by 2024 Iowa Acts, House Files 2326 and 2394, and Senate File 2291, and Iowa Code chapter 17A.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, Senate File 2291. The amendments set forth supporting guidance to licensees regarding brokerage agreements and compensation negotiation.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on March 11, 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

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

March 11, 2025
1:30 to 2 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa
Via videoconference call:
meet.google.com/zqb-qnex-nyz
Or dial: 510.766.1166
PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend paragraph **12.2(3)“b”** as follows:

b. The written disclosure is acknowledged by separate signatures ~~of all parties to the transaction.~~ A change in the licensee's representation that makes the initial written disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made ~~which~~ that is followed by a new written disclosure signed by all parties to the transaction as soon as practical.

ITEM 2. Amend subrule 12.2(6) as follows:

12.2(6) Nothing contained in this rule bars a party from entering into a written ~~listing or~~ brokerage agreement with a broker ~~which~~ that contains duties, obligations, and responsibilities that are in addition to those specified in Iowa real estate license law and commission rules.

ITEM 3. Amend subrule 12.2(10) as follows:

12.2(10) If the seller, landlord, buyer, or tenant ~~rejects representation, or~~ refuses to sign the agency disclosure document, or refuses to sign acknowledging receipt of the disclosure, the licensee notes that fact and includes the date, place, time, and the names of others in attendance on a copy of the agency disclosure document and obtains other documentation establishing delivery of the disclosure and maintains the written documentation, including but not limited to copies of facsimile, restricted delivery certified mail, and other communications, in the transaction file.

ITEM 4. Amend subrule 12.2(17) as follows:

12.2(17) The licensee offering brokerage services to a person as a buyer's or tenant's agent, or who is providing brokerage services to a person as a seller's or landlord's agent, discloses in writing to that person the type or types of brokerage relationships the broker and affiliated licensees are offering to that person before entering into a ~~listing or~~ brokerage agreement with that person.

ITEM 5. Amend subparagraph **12.3(1)“c”(7)** as follows:

(7) Providing brokerage services ~~to all parties to the transaction~~ honestly and in good faith;

ITEM 6. Amend subrule 12.3(2) as follows:

12.3(2) *Duty to a buyer or tenant.* A licensee acting as an exclusive seller's or exclusive landlord's agent discloses to any customer all material adverse facts actually known by the licensee pursuant to Iowa Code section 543B.56.

a. and *b.* No change.

~~*e.*—A seller or landlord may agree in writing with an exclusive seller's or exclusive landlord's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the seller's or landlord's behalf is an agent with the same obligations and responsibilities to the seller or landlord as the primary broker of the seller or landlord.~~

~~*c.*~~ *c.* A real estate brokerage engaged by a seller or landlord in a real estate transaction may provide assistance to an unrepresented buyer or tenant by performing such acts as preparing offers and conveying those offers to the seller or landlord and providing information and assistance concerning professional services not related to real estate brokerage services.

ITEM 7. Amend subrule 12.3(3) as follows:

12.3(3) *Alternative properties.* The licensee may show alternative properties not owned by the seller or landlord to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord.

ITEM 8. Amend subparagraph **12.4(1)“c”(7)** as follows:

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

ITEM 9. Amend subrules 12.4(2) and 12.4(3) as follows:

12.4(2) *Duty to a seller or landlord.* A licensee acting as an exclusive buyer's or an exclusive tenant's agent discloses to any customer all material adverse facts actually known by the licensee, pursuant to Iowa Code section 543B.56.

a. and *b.* No change.

~~*e.*—A buyer or tenant may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the buyer's or tenant's behalf is a single agent with the same obligations and responsibilities to the buyer or tenant as the primary broker of the buyer or tenant.~~

~~*c.*~~ *c.* A real estate brokerage engaged by a buyer or tenant in a real estate transaction may provide assistance to an unrepresented seller or landlord by performing such acts as preparing offers and conveying those offers to the buyer or tenant and providing information and assistance concerning professional services not related to real estate brokerage services.

12.4(3) *Competing buyers or tenants.* The licensee may show properties in which the buyer or tenant is interested to other prospective buyers or tenants, may assist other competing buyers or tenants, and may enter into brokerage service agreements with other competing buyers or tenants without breaching any duty or obligation to the buyer or tenant.

ITEM 10. Amend paragraph **12.5(4)“b”** as follows:

b. The potential dual agency agreement should be provided to the buyer or tenant prior to entering into a buyer or tenant agency agreement or a contract for buyer or tenant brokerage services.

ITEM 11. Amend rule 193E—12.6(543B) as follows:

193E—12.6(543B) Appointed agents within a brokerage. Iowa Code section 543B.59 authorizes a designated broker to elect to appoint in writing one or more different licensees affiliated with the broker to act as agent to represent exclusively different clients in the same transaction, to the exclusion of all other affiliated licensees within the real estate brokerage. A licensee cannot disclose, except to the licensee's designated broker, information made confidential by request or instructions of the client the licensee is representing or otherwise confidential by statute or rule, except information allowed by this chapter or mandated to be disclosed by law.

12.6(1) No change.

12.6(2) The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the listing agreement with the seller or leasing agreement with the landlord will represent the seller or landlord as that client's agent. In that scenario, ~~all~~ other licensees affiliated with the designated broker ~~will~~ may represent buyers or tenants as their agents in any transactions dealing with the subject property.

12.6(3) The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the buyer representation agreement with the buyer or leasing agreement with the tenant will represent the buyer or tenant as that client's agent. In that scenario, other licensees affiliated with the designated broker may represent sellers or landlords as their agents in any transactions dealing with the subject property.

12.6(3) 12.6(4) If any seller, landlord, buyer, or tenant who is a client of the broker refuses to sign and consent to the appointed agent within the brokerage appointed by that same broker for the other party to the transaction, then the broker and licensees affiliated with the broker cannot act as an appointed agent for that other party.

ITEM 12. Amend subrule 12.7(1) as follows:

12.7(1) Prior to entering into a ~~listing or~~ brokerage agreement, a real estate brokerage notifies a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees in accordance with Iowa Code section 543B.59(1). The appointed agent disclosure includes, at a minimum, the following provisions:

a. to e. No change.

ARC 8858C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to prelicense education and continuing education and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 16, "Prelicense Education and Continuing Education," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 543B and 17A and 2024 Iowa Acts, House File 2686.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House File 2686. The amendments set forth supporting guidance to licensees regarding brokerage agreements.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on March 11, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
	Via videoconference call:
	meet.google.com/zqb-qnex-nyz
	Or dial: 510.766.1166
	PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 16.4(2) as follows:

16.4(2) As a criteria of license renewal in an active status, each real estate licensee completes a minimum of 36 hours of approved programs, courses or activities. ~~The continuing education is completed during the three calendar years of the license term and cannot be carried over to another~~

~~license renewal term.~~ 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 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course nor the four-hour ethics course. Approved courses in the following subjects are completed to renew a license to active status:

Law Update.	8 hours
Ethics	4 hours
Electives.	24 hours

ITEM 2. Amend subrule 16.5(1) as follows:

16.5(1) The commission will verify by random audit or on a test basis the education claimed by the licensee. It is the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation is retained by the licensee for a period of ~~three~~ six years after the effective date of the license renewal.

ITEM 3. Amend rule 193E—16.6(543B) as follows:

193E—16.6(543B) Reactivating an inactive license. A license may be renewed without the necessary continuing education, but it is only renewed to an inactive status. Prior to reactivating a license that has been issued inactive due to failure to submit evidence of continuing education, the licensee submits evidence that all deficient continuing education hours have been completed. ~~The maximum continuing education hours cannot exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.~~ 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 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course nor the four-hour ethics course.

ARC 8859C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to investigations and disciplinary procedures and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 18, “Investigations and Disciplinary Procedures,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 543B and 17A.

Purpose and Summary

The proposed amendment implements Iowa Code section 543B.56A, which imposes a civil penalty for failure to have a brokerage agreement.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on March 11, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
	Via videoconference call:
	meet.google.com/zqb-qnex-nyz
	Or dial: 510.766.1166
	PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend subrule 18.14(5) as follows:

18.14(5) *Violations for which civil penalties may be imposed.* The following is a nonexclusive list of violations upon which civil penalties may be imposed:

- a. to r. No change.

s. Failing to have a brokerage agreement signed as outlined in Iowa Code section 543B.56A.
~~s. t.~~ Violating any of the remaining provisions in 193E—Chapters 1 through 20 inclusive 22 that have not heretofore been specified in this rule.

ARC 8860C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to enforcement proceedings against unlicensed persons and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 21, “Enforcement Proceedings Against Unlicensed Persons,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 543B and 17A.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, Senate File 2291. The amendments set forth supporting guidance to licensees regarding brokerage agreements and reduce repetitive language.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on March 11, 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

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

March 11, 2025
1:30 to 2 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa
Via videoconference call:
meet.google.com/zqb-qnex-nyz
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PIN: 607867062

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Amend rule 193E—21.2(17A,543B) as follows:

193E—21.2(17A,543B) Unlawful practices. Practices by unlicensed persons which are subject to civil penalties include; but are not limited to:

1. Acts or practices by unlicensed persons ~~which~~ that need licensure pursuant to Iowa Code sections 543B.1, 543B.3, ~~and~~ 543B.6, and 543B.56A, which do not fall into the exceptions listed in Iowa Code section 543B.7.
2. to 7. No change.

ARC 8861C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to wholesaling of residential property and providing an opportunity for public comment

The Real Estate Commission hereby proposes to adopt a new Chapter 22, "Wholesaling of Residential Property," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543B as amended by 2024 Iowa Acts, House File 2394, and Iowa Code chapter 17A.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House File 2394. The chapter sets forth supporting guidance to licensees regarding brokerage agreements and reduces repetitive language.

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 5, 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 Commission 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 Commission no later than 4:30 p.m. on March 11, 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

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

March 11, 2025	6200 Park Avenue, Suite 100
1:30 to 2 p.m.	Des Moines, Iowa
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Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the 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. Adopt the following new 193E—Chapter 22:

CHAPTER 22
WHOLESALE OF RESIDENTIAL PROPERTY

193E—22.1(543B) Real estate wholesaling. A licensed real estate broker may engage in residential real estate wholesaling or represent a nonlicensed wholesaler in a residential real estate transaction provided proper disclosure is made under the guidelines in Iowa Code section 543B.6A.

193E—22.2(543B) Disclosure of wholesaling. A real estate wholesaler shall provide disclosure to all parties to the residential real estate wholesaling transaction prior to executing a contract to purchase or conveying an equitable interest to another party, including but not limited to the following:

22.2(1) The legal identities of all parties to the transaction, including the current titleholder for the residential property, the wholesaler, the purchaser of the equitable interest, and any real estate licensee who represents a party in the transaction.

22.2(2) An explanation of the wholesaling process, including but not limited to the following:

- a. A wholesaler holds an equitable interest in the property, not legal title.
- b. A wholesaler is selling its equitable interest in the property to another party.
- c. A wholesaler may earn a profit from the sale of its equitable interest in the property.

22.2(3) Wholesaling disclosure: “This transaction constitutes real estate wholesaling, meaning the wholesaler holds only an equitable interest in the property and may not be able to convey title.”

193E—22.3(543B) Penalties. Residential real estate wholesalers who do not comply with the required disclosures or licensing requirements shall be subject to a civil fine of up to \$10,000 or 10 percent of the sale price for each transaction in violation of Iowa Code section 543B.6A, and the seller or buyer may cancel the contract at any time prior to closing without penalty and retain any earnest money paid by the wholesaler. Civil penalties shall be enforced at the discretion of the real estate commission.

These rules are intended to implement Iowa Code section 543B.6A.

ARC 8866C

UTILITIES COMMISSION[199]

Notice of Intended Action

Proposing rulemaking related to intrastate gas pipelines and underground gas storage and providing an opportunity for public comment

The Utilities Commission hereby proposes to rescind Chapter 10, “Intrastate Gas Pipelines and Underground Gas Storage,” 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 and 479.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.2, 479.5, 479.17, 479.23, 479.26, 479.42 and 479.43.

Purpose and Summary

The Commission commenced this rulemaking as part of its Executive Order 10 review. The purpose of proposed Chapter 10 is to implement the requirements in Iowa Code chapter 479 and to establish the procedures and filing requirements for a permit to construct, maintain, and operate an intrastate gas pipeline; for an amendment to an existing permit; and for renewal of an existing permit. Chapter 10 also implements the requirements in Iowa Code chapter 479 for permits for underground storage of natural gas.

The Commission issued an order requesting stakeholder comments on the proposed repromulgation of Chapter 10, the Commission's rules that establish intrastate gas pipelines and underground gas storage. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company; MidAmerican Energy Company; and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, filed comments addressing the proposed repromulgation.

The Commission reviewed the stakeholder comments and proposes the following repromulgation of the Commission's rules for intrastate gas pipelines and underground gas storage.

The Commission issued an Order Approving Regulatory Analysis on November 15, 2024. The Commission issued an order commencing rulemaking on December 17, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0010.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 3, 2024. A public hearing was held on the following date(s):

- May 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the 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 10.

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 March 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 17, 2025
2 to 4 p.m.

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

March 31, 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 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10

INTRASTATE GAS PIPELINES AND UNDERGROUND GAS STORAGE

199—10.1(479) General information.

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

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

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

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

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

“*Approximate right angle*” means within 5 degrees of a 90-degree angle.

“*CFR*” means the Code of Federal Regulations in effect as of [effective date of rule].

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

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

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

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

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

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

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

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

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

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

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

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

a. The notice shall include the following:

- (1) The name of the pipeline company;
- (2) The pipeline company’s principal place of business;
- (3) The general description and purpose of the proposed project;
- (4) The general nature of the right-of-way desired;
- (5) The possibility that the right-of-way may be acquired by condemnation if approved by the commission;
- (6) A map showing the route of the proposed project;
- (7) A description of the process used by the commission in deciding whether to approve a permit, including the right to take property by eminent domain;

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

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

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

(11) The following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Commission at 515.725.7300 in advance of the scheduled date to request accommodations.

b. The pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and persons in possession of or residing on the property whose addresses are known. The certified meeting notice shall be deposited in the United States mail not less than 30 days prior to the date of the meeting.

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

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

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

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

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

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

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

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

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

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

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

10.2(7) *Notice to county board of supervisors.* The pipeline company shall send notice of the request for an informational meeting to the county board of supervisors in each county where the pipeline is proposed to be located. The pipeline company shall request from the board of supervisors the name of the county inspector. The pipeline company shall provide the name and contact information of the county inspector to the landowners and other affected persons at the meeting, if known.

199—10.3(479) Petition for permit.

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

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

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

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

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

(4) Other pertinent information.

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

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

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

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

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

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

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

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

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

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

e. Exhibit E.

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

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

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

f. Exhibit F. This exhibit contains the following:

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

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

1. The nature of the lands, waters, and public or private facilities to be crossed;

2. The possible use of alternative routes;

3. The relationship of the proposed pipeline to present and future land use and zoning ordinances; and

4. The inconvenience or undue injury that may result to property owners as a result of the proposed project.

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

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

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

(1) The legal description of the property.

(2) The legal description of the desired easement.

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

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

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

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

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

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

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

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

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

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

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

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

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

10.3(3) Statement of damage claims.

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

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

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

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

10.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing or future easements or from requesting and collecting tenant and affected person information, provided that the pipeline company is not “negotiating” as defined in subrule 10.1(3).

199—10.4(479) Notice of hearing.

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

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

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

10.4(4) If a petition for permit seeks the right of eminent domain, the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing on the landowners and any affected person with interest in the property over which eminent domain is sought. A copy of the Exhibit H filed with the commission for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to the person’s last-known address, and mailed no later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the commission a certificate of service showing all persons and addresses to which notice was sent by certified mail and the date of the mailing, and an affidavit that all affected persons as defined in subrule 10.1(3) were served.

10.4(5) If a petition does not seek the right of eminent domain but all required interests in private property have not yet been obtained at the time the petition is filed, a copy of the notice of hearing shall be served upon any affected person as defined in subrule 10.1(3). Service shall be by ordinary mail, addressed to the last-known address, mailed no later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement

listing all persons to which the notice was mailed, the date of mailing, and an affidavit that all affected persons were served, shall be filed with the commission not less than five days prior to the hearing.

199—10.5(479) Hearing. A hearing shall be set and held in accordance with Iowa Code sections 479.7 and 479.8. Any prehearing proceedings and the hearing shall be conducted in accordance with 199—Chapter 7.

199—10.6(479) Pipeline permit.

10.6(1) A pipeline permit shall be issued once an order granting the permit is final and all the compliance requirements have been met. A pipeline company may request commission approval to delay obtaining consent to cross a railroad right-of-way until after the pipeline permit is issued.

10.6(2) The issuance of the permit authorizes construction on the route or location as approved by the commission, subject to deviation within the permanent route easement right-of-way. If a deviation outside of the permanent route easement right-of-way becomes necessary, construction of the pipeline in that location shall be suspended and the pipeline company shall follow the procedures for filing of a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, E, and F reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company shall secure the necessary easements before construction may commence on the altered route. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the commission, and a hearing will not be required unless the commission determines a hearing is necessary to complete review of the petition for amendment.

10.6(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit order or of condemnation proceedings, the permit is forfeited unless the commission grants an extension of the permit filed prior to the expiration of the two-year period.

10.6(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with 199—Chapter 9 and revised Exhibits A, B, and C, shall be filed with the commission.

199—10.7(479) Renewal permits.

10.7(1) A petition for renewal of an original or previously renewed pipeline permit shall be filed at least one year, and no more than five years, prior to the expiration of the permit. The petition shall be made on the form prescribed by the commission. Instructions for the petition are included as a part of the form, and the form is available on the commission's website. The petition shall include the information required by Iowa Code section 479.23 and paragraph 10.3(1)"d." The route map shall meet the requirements in paragraph 10.3(1)"b," except the existing pipeline route shall be provided instead of the proposed route and the information listed in subparagraph 10.3(1)"b"(6) is not required. The petition shall be considered filed with the commission on the date accepted into the commission's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company.

10.7(2) The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs.

10.7(3) If there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the commission shall set the matter for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication required by rule 199—10.4(479).

199—10.8(479) Amendment of permits.

10.8(1) An amendment of a pipeline permit by the commission is required in any of the following circumstances:

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

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

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

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

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

10.8(2) Petition for amendment.

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

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

199—10.9(479) Inspections. The commission shall examine the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities in the state of Iowa to determine whether they comply with the appropriate standards of pipeline safety. One or more members of the commission, or one or more duly appointed representatives of the commission, may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

199—10.10(479) Standards for construction, operation, and maintenance.

10.10(1) All pipelines, underground storage facilities, and equipment shall be designed, constructed, operated, and maintained in accordance with the following standards:

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

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

c. 49 CFR Part 199, “Drug and Alcohol Testing.”

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

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

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

Conflicts between the standards established in paragraphs 10.10(1) “a” through “f” or between the requirements of rule 199—10.10(479) and other requirements that are shown to exist by appropriate written documentation filed with the commission shall be resolved by the commission.

10.10(2) If review of Exhibit C, or inspection of facilities that are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, the pipeline company shall provide satisfactory evidence showing the noncompliance has been corrected prior to the commission taking final action on the petition or will be corrected as a result of the commission taking final action on the petition.

10.10(3) Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.

199—10.11(479) Crossings of highways, railroads, and rivers.

10.11(1) Approval of other authorities, such as highway and railroad authorities and environmental agencies, need not be obtained prior to petitioning the commission for a pipeline permit. It is recommended that the appropriate other authorities be contacted to determine what restrictions or conditions may be placed on the crossing by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities that may impact the routing of the pipeline. Approvals and any restrictions, conditions, or relocations of existing facilities shall be filed with the commission

prior to the granting of the permit. A pipeline company may request commission approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

10.11(2) Pipeline routes that include crossings of highway or railroad right-of-way longitudinally on such right-of-way are not to be constructed unless a showing of consent by the appropriate authority has been provided by the pipeline company as required in paragraph 10.3(1) “e.”

199—10.12(479) Transmission line factors. Factors considered by the commission in determining whether a pipeline is a transmission line and is, therefore, required to have a permit include but are not limited to:

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

199—10.13(479) Reports to federal agencies.

10.13(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191 or Part 192, a pipeline company shall file a copy of the report with the commission. The commission shall also be advised of any telephonic incident report made by the pipeline company.

10.13(2) In addition to incident reports required by 49 CFR Part 191, the commission shall be notified of any incident or accident where the economic damage exceeds \$15,000 or results in loss of service to 50 or more customers. The pipeline company shall notify the commission, as soon as possible, of any incident by emailing the duty officer at dutyofficer@iuc.iowa.gov or, if email is not available, by calling the commission duty officer at 515.745.2332. The cost of gas lost due to the incident shall not be considered in calculating the economic damage of the incident.

10.13(3) Utilities operating in other states shall provide the commission data for Iowa only.

199—10.14(479) Reportable changes to pipelines under permit.

10.14(1) A pipeline company shall file prior notice with the commission of any of the following actions affecting a pipeline under permit:

- a. Abandonment or removal from service. The pipeline company shall notify the landowners prior to the abandonment or removal of the pipeline from service.
- b. Pressure test or increase in maximum allowable or normal operating pressure.
- c. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

10.14(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and KMZ files and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

199—10.15(479) Sale or transfer of permit.

10.15(1) No permit shall be sold or transferred without written approval of the commission. A petition for approval of the sale or transfer shall:

- a. Be jointly filed by the buyer, or transferee, and the seller, or transferor,
- b. Include assurances that the buyer, or transferee, is:
 - (1) Authorized to transact business in the state of Iowa,

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

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

10.15(2) For purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer and requires prior commission approval.

199—10.16(479) Termination of petition for pipeline permit proceedings. If a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the commission, the commission may dismiss the petition.

199—10.17(479) Gathering line filing requirements.

10.17(1) Filing requirements. Notice of the proposed construction of a gathering line as defined in subrule 10.1(3) is required 30 days prior to the commencement of construction. The notice shall include:

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

b. The purpose of the proposed gathering line.

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

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

e. The approximate date that construction will begin.

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

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

10.17(2) Reporting requirements. A copy of any incident, annual report, or other report filed with the Pipeline and Hazardous Materials Safety Administration pursuant to 49 CFR Part 191 by the owner or operator of a gathering line located in Iowa shall be filed with the commission at the same time it is filed with the Pipeline and Hazardous Materials Safety Administration.

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

ARC 8931C

UTILITIES COMMISSION[199]

Notice of Intended Action

**Proposing rulemaking related to accounting
and providing an opportunity for public comment**

The Utilities Commission hereby proposes to rescind Chapter 16, “Accounting,” 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 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.9.

Purpose and Summary

The purpose of this proposed rulemaking is to review the accounting chapter within the bounds of Executive Order 10. Chapter 16, which holds the commission's accounting rules, is used to inform utilities within the state of Iowa how to apply the Federal Energy Regulatory Commission's Uniform Systems of Accounts and the National Association of Regulatory Utility Commissioners Uniform Systems of Accounts, and what part of those, if any, are modified.

The Commission issued an order requesting stakeholder comments on the proposed repromulgation of Chapter 16, the Commission's rules pertaining to accounting. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company; MidAmerican Energy Company; and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, filed comments addressing the proposed repromulgation.

The Commission reviewed the stakeholder comments and proposes the following repromulgation of the Commission's rules pertaining to accounting.

The Commission issued an Order Approving Regulatory Analysis on December 31, 2024. The Commission issued an order commencing rulemaking on January 22, 2025. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0016.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on February 21, 2024. A public hearing was held on the following date(s):

- March 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

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 16.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on March 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:

April 1, 2025
9 to 11 a.m.

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

April 14, 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 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
ACCOUNTING

199—16.1(476) Accounting—general information.

“Code of Federal Regulations” or “CFR” means the Code of Federal Regulations, which contains the 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.

16.1(1) Application of rules. These rules shall apply to any utility operating within the state of Iowa under the jurisdiction of the commission pursuant to Iowa Code chapter 476.

16.1(2) Effect of rules. In prescribing uniform systems of accounts for public utilities, the commission does not commit itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining other matters before the commission. The prescribed systems of accounts are designed to set out the facts in connection with all sources of funds, including incomes and amounts due and receivable from each source, and the amount expended and due for each purpose, distinguishing clearly all payments for operating expenses from those of new construction, extensions, and additions to property; and to provide for balance sheets showing various assets and liabilities and various forms of proprietary interest under uniform classifications; and, therefrom, the commission will determine, in connection with such matters as may be under advisement from time to time, what consideration will be given to the various items in the several accounts.

199—16.2(476) Uniform systems of accounts—electric. The uniform systems of accounts for public utilities and licensees subject to the provisions of the Federal Power Act, 18 CFR Part 101 published in the Federal Energy Regulatory Commission's (FERC's) rules and regulations, and the [effective date of this chapter], uniform systems of accounts for rural electric cooperatives prescribed for electric borrowers of the Rural Utilities Service (RUS), as applicable, are adopted with the following modifications:

16.2(1) Definition 7 published in 18 CFR Part 101 is changed to read: “Commission” means the commission except where reference is made to the licensing authority of FERC (as in definitions 22 and 27), where Commission means FERC.

16.2(2) Definition 29 published in 18 CFR Part 101 is changed to read: “Public utility” means any natural or legal person, or other entity, defined as a public utility and made subject to the authority of the commission by Iowa Code section 476.1.

16.2(3) General instruction 1-B of the uniform systems of accounts for electric utilities is modified by adding the following sentence: “Utilities subject to rate regulation by the commission shall keep all the accounts of these systems of accounts that are applicable to their affairs, and utilities not subject to rate regulation shall keep the accounts of these systems of accounts for operating revenues only.”

16.2(4) General instruction 1-D of the uniform systems of accounts for electric utilities is modified by adding the following sentence: “It is recommended but not required that electric utilities not subject to rate regulation, other than electric cooperatives, keep all applicable accounts in accordance with the Federal Energy Regulatory Commission uniform systems of accounts, 18 CFR Part 101.” Rural electric cooperatives not subject to rate regulation may choose to keep all applicable accounts in accordance with the RUS uniform systems of accounts.

16.2(5) General instruction 2-D of the uniform systems of accounts for electric utilities is modified by adding the following sentence: “The electric utilities may use additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders providing the commission is notified of the nature, amount, and purpose of such accounts in the annual report to the commission and at such other times as may be requested by the commission.”

16.2(6) The definitions for the uniform systems of accounts for electric utilities, when used in accounts 909, Informational and Instructional Advertising Expenses; 913, Advertising Expenses; and 930.1, General Advertising Expenses, are modified to include the following definitions:

“*Affiliate*” means any person doing business in this state who directly or indirectly controls or is controlled by or is under common control with a public utility.

“*Appliance*” or “*equipment*” means any device, including a fixture, that consumes electric energy and any ancillary device required for its operation.

“*Consideration*” means any cash, donation, gift, allowance, rebate, bonds, merchandise (new or used), property (tangible or intangible), labor, service conveyance, commitment, right, or other thing of value.

“*Financing*” includes acquisition of equity or debt interests, loans, guarantee of loans, advances, sale and repurchase agreements, sale and lease-back agreements, sales on open account, conditional or installment sales contracts, or other investment or extensions of credit.

“*Person*” includes an individual, group, firm, partnership, corporation, cooperative, association, or other organization, but does not include state or local political subdivisions or municipal corporations.

“*Promotional practices*” means any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service, provided that the words “promotional practices” do not include the following activities:

1. Providing repairs and service to appliances or equipment of customers of a public utility in an emergency, to restore service, to prevent hazardous conditions, or to service interruptions.
2. Inspection and adjustment of appliances or equipment by a public utility.
3. Repairs and other maintenance to appliances or equipment by a public utility that could be performed by an independent appliance dealer or service shop if charges are at cost or above.
4. Providing service, wiring, piping, appliances, or equipment in accordance with tariffs, rules, or regulations of a public utility on file with and approved by the commission.
5. Providing appliances, equipment, or instructional services to an educational institution for the purpose of instructing students in the use or repair of such appliances or equipment.
6. Providing discounts or financing to employees of a public utility to encourage their use of the utility’s service.
7. Merchandising and related inventorying of appliances or equipment for sale at retail and making and fulfilling reasonable warranties against defects in material and workmanship in appliances or equipment existing at the time of delivery; the elimination of hazardous conditions that due to a grandfather provision would not be corrected by the customer and yet would require correction to protect the public and minimize company liability.
8. The replacement of or alterations to a customer’s obsolete or inefficient system.

9. Technical, informational, or educational assistance offered to persons on the use of energy furnished by a public utility or on the use of maintenance of appliances or equipment.

10. Lunches, gifts, door prizes, etc., presented for attendance at informational meetings, conferences, etc., valued at \$10 or less are not considered to be a promotional practice.

11. Providing appliances or equipment incidental to exhibitions, demonstrations, tests, or experiments of reasonable duration.

12. Any promotional practice, or program that includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

16.2(7) The uniform systems of accounts for electric utilities are modified as follows:

a. 424 Promotional Practices. This account includes the cost of labor, materials used, and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices. Promotional practices, or programs that include promotional practices, and the labor, materials, and expenses related to promotional practices that are exempted by subrule 16.6(2) need not be included in this account. The account includes but is not limited to the following items:

(1) The financing of land or the construction of any building when the same is not owned or otherwise possessed by the utility or its affiliate, without board written approval.

(2) The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for the following: studies to determine comparative capital or operating costs and expenses or to show the desirability and feasibility of selecting one form of energy over another, contributions for research and development of new energy sources, etc.

(3) The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof or the furnishing to any person of any tangible property or service for a consideration of less than the value thereof. "Value" in this instance means the fair market price of the property or service under competitive market conditions and under arm's length conditions.

(4) The furnishing of consideration to any person for the sale, installation, or use of appliances or equipment of one form of energy over another. Employees who are paid a commission in lieu of salary for the initial sale of appliances are exempted.

(5) The provision of free, or at less than cost or value, wiring, piping, appliances, or equipment to any person, provided that a utility, engaged in an appliance merchandising sales program, will not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances. All items required by service rules of this board are exempted.

(6) The provision of free, or at less than cost or value, installation, operation, repair, modification, or maintenance of appliances, equipment, wiring or piping to any person. This would not include services provided for the convenience and safety of customers such as gas leak testing, lighting of furnaces, etc.

(7) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the reasonable value of the trade-in based on the past experience of a company or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in.

(8) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment.

(9) The furnishing of consideration to any person for any advertising or publicity purpose, except where appropriately classified to another account.

(10) The guaranteeing of the maximum cost of electric utility service, except under published tariffs.

(11) Labor items related to promotional practices:

1. Salary of employees engaged directly or indirectly in promotional practices.

2. Clerical and stenographic work performed in relation to promotional practices.

3. Fees paid to consultants, agents, attorneys, etc., on related promotional practices.

(12) Materials and expenses related to promotional practices:

1. Amounts spent on postage, office supplies, displays, posters, exhibits, etc.
2. Films, movies, photographs prepared for promotional activities.
3. Expenses paid such as lodging, food, entertainment expenses.
4. Transportation by company auto or plane and public transportation of any mode.
- b. 426 Miscellaneous Income Deductions. Immediately following the current text and item list,

add the following:

- (1) 426.7 Promotional Advertising Expenses.
- (2) 426.8 Institutional or Goodwill Advertising Expenses.
- (3) 426.9 Rate Justification Advertising Expenses.
- c. 426.4 Expenditures for Certain Civic, Political, and Related Activities.

(1) This account includes the cost of labor, materials used, and expenses incurred in advertising, whether on a national, regional, or local basis, that is designed to influence public opinion with respect to the election or appointment of public officials or the adoption, repeal, revocation, or modification of referenda, legislation, or ordinances. The account also includes expenditures for influencing the decisions of public officials, but not expenditures as are directly related to appearances before regulatory or other governmental bodies in connection with the utility's existing or proposed operations.

(2) Entries relating to certain civic, political, and related activities included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where political advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such activities charged to any member or subsidiary that is an Iowa electric utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.2(7) "c."

(4) Labor items related to political advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting promotional motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

6. Direct supervision of certain civic, political, and related activities.

(5) Materials and expenses related to political advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, dodgers, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

NOTE: Franchise advertising and related expenses shall be charged to account 913.5. More information can be found in paragraph 16.2(7) "h" or FERC account 302, Franchises and Consents.

d. 426.7 Promotional Advertising Expenses.

(1) This account includes the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise, load factor advertising, or advertising that is part of a promotional practice, or a program that includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

(2) Entries relating to promotional advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or

scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where promotional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary that is an Iowa electric utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.2(7) “c.”

(4) Labor items related to promotional advertising include items in numbered paragraphs 16.2(7) “c”(4)“1” through “6.”

(5) Materials and expenses related to promotional advertising include:

1. Items in numbered paragraphs 16.2(7) “c”(5)“1” through “8.”
2. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.

NOTE A: Advertisements that set forth the value or advantages of utility service (without reference to specific appliances or if reference is made to appliances from dealers or refers to appliances not carried for sale by the utility) will be considered sales promotion advertising, and the cost will be charged to this account. However, advertisements that are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, will be considered as merchandise advertising, and the cost shall be charged to FERC account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

NOTE B: Advertisements that substantially mention or refer to the value or advantages of utility service, together with specific reference to makes or appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, will be considered as a combination advertisement, and the costs shall be distributed between this account and FERC account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of space, time, or other proportional factors.

e. 426.8 Institutional or Goodwill Advertising Expenses.

(1) This account includes the cost of labor, materials, and expenses incurred in advertising that is designed to create, enhance, or sustain the utility’s image or goodwill to the general public or its customers.

(2) Entries relating to institutional or goodwill advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where institutional or goodwill advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary that is an Iowa electric utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.2(7) “e.”

(4) Labor items related to institutional or goodwill advertising include items in numbered paragraphs 16.2(7) “c”(4)“1” through “6.”

(5) Materials and expenses related to institutional or goodwill advertising include items in numbered paragraphs 16.2(7) “c”(5)“1” through “8.”

Below are examples of the advertising to be included in this account:

EXAMPLE 1. Pronouncements primarily lauding the utility or the area or community the utility serves.

EXAMPLE 2. Advertising activities to inform the ratepayers of the social and economic advantages or status of the area or community the utility serves.

EXAMPLE 3. Advertising activities to inform the public of the utility’s participation in programs to improve the economic condition of the area or community the utility serves.

EXAMPLE 4. Advertising activities to inform the public of the utility’s role of good citizenship.

EXAMPLE 5. Information and routine data supplied by the utility to local governments, planning agencies, civic groups, businesses, and the general public that is not included in account 909,

Informational and Instructional Advertising Expenses. More information can be found in paragraph 16.2(7) “g.”

EXAMPLE 6. Advertising activities to inform the public of the utility’s consciousness of, or involvement in, health, safety, conservation, or environmental programs, except as included in account 909, Informational and Instructional Advertising Expenses.

f. 426.9 Rate Justification Advertising Expenses.

(1) This account includes the cost of labor, materials, and expenses incurred in advertising, whether on a regional or local basis, that is designed to promote public acceptance of utility rate increases or the utility’s filed rates. The account also includes all costs incurred by the utility for advertising in opposition to the decision of the regulatory agency. However, the expenses associated with simply informing customers that new rates have been requested will be recorded in FERC account 928, Regulatory Commission Expenses.

(2) Entries relating to rate justification advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary that is an Iowa electric utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.2(7) “f.”

(4) Labor items related to rate justification advertising include items in numbered paragraphs 16.2(7) “c”(4) “1” through “6.”

(5) Materials and expenses related to rate justification advertising include items in numbered paragraphs 16.2(7) “c”(5) “1” through “8.”

g. 909 Informational and Instructional Advertising Expenses.

(1) This account is amended to include the cost of labor, materials, and expenses incurred in advertising activities relating to informing customers of the reasons for and methods whereby energy may be conserved and energy consumption reduced by the consumer; informing the public of the methods by which customers can participate with the utility in preserving and improving the environment; and information as to what the utility urges or suggests customers should do in utilizing electric service to protect their health and safety, and to utilize their electric equipment safely and economically.

1. Included in this account will be advertising activity relating to the electric utility that is related directly to the company’s provision of service to the customer during energy, fuel, and related shortages.

2. Advertising that is primarily designed to laud the utility’s achievements or projects purporting to preserve or enhance the environment will be recorded in account 426.8. More information can be found in paragraph 16.2(7) “e.”

(2) Immediately following the current text and items list, “Load Factor Advertising Expenses” is added.

1. This incorporates into the account the cost of labor, materials, and expenses incurred in advertising activities designed to improve load factor so that plant and equipment already installed can be operated more efficiently and to a greater degree of capability, thereby resulting in lower overall costs to the consumer.

2. This also includes advertising expenditures that are designed to further industrial and commercial development of the company’s service area.

(3) Entries relating to conservation, environmental, informational, and load factor advertising included in this account will contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(4) Where conservation, environmental, informational, and load factor advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary that is an Iowa electric

utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.2(7) "g."

(5) Labor items related to conservation advertising include items in numbered paragraphs 16.2(7) "c"(4)"1" through "6."

(6) Materials and expenses related to conservation advertising include items in numbered paragraphs 16.2(7) "c"(5)"1" through "8."

Below are examples of the advertising to be included in this account:

EXAMPLE 1. Instructions in the proper use of equipment owned by the utility or the customer that will result in less consumption of energy.

EXAMPLE 2. Advertising designed to convince consumers to turn down thermostats, turn off lights when not in use, and turn off appliances, television sets, etc., when not in use.

EXAMPLE 3. Instructions in the proper use of equipment owned by the utility or the customer that makes use of the utility's service.

EXAMPLE 4. Information as to new rates, billing practices, new inspection, or meter-reading schedules.

EXAMPLE 5. Notification of emergency conditions and procedures to be followed during the emergency.

EXAMPLE 6. Advice concerning hazards associated with the utility's electric service.

EXAMPLE 7. Encouragement for manufacturers to go to night operations.

(7) Excluded from this account and charged to FERC account 930.2, Miscellaneous General Expenses, is the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also excluded are all expenses of promotional, institutional or goodwill, and political advertising. More information can be found in paragraphs 16.2(7) "c," 16.2(7) "d," and 16.2(7) "e," which refer to accounts 426.4, Expenditures for Certain Civic, Political, and Related Activities; 426.7, Promotional Advertising Expenses; and 426.8, Institutional or Goodwill Advertising Expenses, respectively.

1. Advertising expenses directly related to obtaining a franchise or renewing an old franchise will be charged to FERC account 302, Franchises and Consents. Such amounts shall be maintained in a separate subaccount for ready identification.

2. Advertising expenses directly related to securing of new debt financing will be charged to FERC account 181, Unamortized Debt Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

3. Advertising expenses directly related to securing of new equity financing shall be charged to FERC account 214, Capital Stock Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

h. 913 Advertising Expenses. The entire current text of FERC account 913, Major Expenses (Major Only), is to be deleted, and subaccount 913.5, Franchise Advertising Expenses, is to be added.

(1) This account includes only reasonable advertising expenditures for the purpose of obtaining approval, modification, or revocation of franchises.

(2) Entries relating to reasonable franchise advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising matter will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Labor items related to franchise advertising include items in numbered paragraphs 16.2(7) "c"(4)"1" through "6."

(4) Materials and expenses related to franchise advertising include items in numbered paragraphs 16.2(7) "c"(5)"1" through "8."

16.2(8) FERC account 421.1, Gain on Disposition of Property, or 421.2, Loss on Disposition of Property, as they are defined and exist in the uniform systems of accounts, will be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property, including land and land rights, unless otherwise authorized or required by the commission for good cause shown.

16.2(9) FERC account 105, Electric Plant Held for Future Use, of the uniform systems of accounts in 18 CFR Part 101 is modified in subparagraph “d” by deleting the following language: “in account 411.6 or 411.7, as appropriate, except when determined to be significant by the commission. Upon such a determination, the amounts will be transferred to account 256, Deferred Gains from Disposition of Utility Plant, or account 187, Deferred Losses from Disposition of Utility Plant, and amortized to accounts 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant, as appropriate,” and substituting in lieu thereof: “in account 421.1, Gain on Disposition of Property, or 421.2, Loss on Disposition of Property, as appropriate unless otherwise authorized or required by the commission for good cause shown.”

199—16.3(476) Uniform systems of accounts—gas. The uniform systems of accounts for natural gas companies subject to the provisions of the Natural Gas Act, 18 CFR Part 201 published in FERC’s rules and regulations, is adopted with the following modifications:

16.3(1) Definition 7 is changed to read: “Commission” means the commission except where reference is made to the authority of FERC under the Natural Gas Act and where the commission does not have the same or similar authority under Iowa Code chapter 476, where “Commission” means FERC.

16.3(2) Definition 22 is changed to read: “Natural gas company” means a person furnishing gas by piped distribution system to the public for compensation.

16.3(3) General instruction 1-B of the uniform systems of accounts for gas utilities is modified to add the following sentence: “Gas utilities subject to rate regulation by the commission shall keep all the accounts of these systems of accounts that are applicable to their affairs, and gas utilities not subject to rate regulation shall keep the accounts of these systems of accounts for operating revenues only.”

16.3(4) General instruction 1-D of the uniform systems of accounts for gas utilities is modified by adding the following sentence: “It is recommended but not required that gas utilities not subject to rate regulation keep all applicable accounts in accordance with the FERC uniform systems of accounts 18 CFR Part 201.”

16.3(5) General instruction 2-D of the uniform systems of accounts for gas utilities is modified by adding the following sentence: “The gas utilities may use additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders, providing the commission is notified of the nature, amount, and purpose of such accounts in the annual report to the commission and at such other times as may be requested.”

16.3(6) The definitions for the uniform systems of accounts for gas utilities, when used in account 424, Promotional Practices, are modified to include the following definitions:

“*Affiliate*” means any person doing business in this state who directly or indirectly controls or is controlled by or is under common control with a public utility.

“*Appliance*” or “*equipment*” means any device, including a fixture, that consumes natural gas and any ancillary device required for its operation.

“*Consideration*” means any cash, donation, gift, allowance, rebate, bonds, merchandise (new or used), property (tangible or intangible), labor, service conveyance, commitment, right, or other thing of value.

“*Financing*” includes acquisition of equity or debt interests, loans, guarantee of loans, advances, sale and repurchase agreements, sale and lease-back agreements, sales on open account, conditional or installment sales contracts, or other investment or extensions of credit.

“*Person*” includes any individual, group, firm, partnership, corporation, cooperative, association, or other organization, but does not include state or local political subdivisions or municipal corporations.

“*Promotional practices*” means any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service, provided that “promotional practices” does not include the following activities:

1. Providing repairs and service to appliances or equipment of customers of a public utility in an emergency or to restore service or to prevent hazardous conditions or service interruptions.

2. Inspection and adjustment of appliances or equipment by a public utility.
3. Repairs and other maintenance to appliances or equipment by a public utility that could be performed by an independent appliance dealer or service shop if charges are at cost or above.
4. Providing service, wiring, piping, appliances, or equipment in accordance with tariffs, rules, or regulations of a public utility on file with and approved by the commission.
5. Providing appliances, equipment, or instructional services to an educational institution for the purpose of instructing students in the use or repair of such appliances or equipment.
6. Providing discounts or financing to employees of a public utility to encourage their use of the utility's service.
7. Merchandising and related inventory of appliances or equipment for sale at retail and making and fulfilling reasonable warranties against defects in material and workmanship in appliances or equipment existing at the time of delivery; the elimination of hazardous conditions that due to a grandfather provision would not be corrected by the customer and yet would require correction to protect the public and minimize company liability.
8. The replacement of or alterations to a customer's obsolete or inefficient system.
9. Technical, informational, or educational assistance offered to persons on the use of energy furnished by a public utility or on the use of maintenance of appliances or equipment.
10. Lunches, gifts, door prizes, etc., presented for attendance at informational meetings, conferences, etc., valued at \$10 or less will not be considered to be a promotional practice.
11. Providing appliances or equipment incidental to exhibitions, demonstrations, tests, or experiments of reasonable duration.
12. Any promotional practice, or program that includes a promotional practice, designed to develop or implement programs that promote energy efficiency.

16.3(7) The uniform systems of accounts for gas utilities are modified to include the following:

a. 424 Promotional Practices. This account includes the cost of labor, materials, and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices. Promotional practices, or programs that include promotional practices, and the labor, materials, and expenses related to promotional practices that are exempted by subrule 16.6(2) need not be included in this account. The account includes but is not limited to the following items:

(1) The financing of land or the construction of any building when the same is not owned or otherwise possessed by the utility or its affiliate without commission written approval.

(2) The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for the following: studies to determine comparative capital or operating costs and expenses or to show the desirability and feasibility of selecting one form of energy over another, contributions for research and development of new energy sources, etc.

(3) The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof or the furnishing to any person of any tangible property or service for a consideration of less than the value thereof. "Value," in this instance, means the fair market price of the property or service under competitive market conditions and under arm's length conditions.

(4) The furnishing of consideration to any person for the sale, installation, or use of appliances or equipment of one form of energy over another. Employees who are paid a commission in lieu of salary for the initial sale of appliances are exempted.

(5) The provision of free, or at less than cost or value, wiring, piping, appliances, or equipment to any person, provided that a utility engaged in an appliance merchandising sales program, will not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances. All items required by service rules of this commission are exempted.

(6) The provision of free, or at less than cost or value, installation, operation, repair, modification, or maintenance of appliances, equipment, wiring or piping to any person. This would not include services provided for the convenience and safety of customers such as gas leak testing, lighting of furnaces, etc.

(7) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the reasonable value of the trade-in based on the past experience of a company or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in.

(8) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment.

(9) The furnishing of consideration to any person for any advertising or publicity purpose, except where appropriately classified to another account.

(10) The guaranteeing of the maximum cost of gas utility service, except under published tariffs.

(11) Labor items related to promotional practices include:

1. Salary of employees engaged directly or indirectly in promotional practices.
2. Clerical and stenographic work performed in relation to promotional practices.
3. Fees paid to consultants, agents, attorneys, etc., on related promotional practices.

(12) Materials and expenses related to promotional practices include:

1. Amounts spent on postage, office supplies, displays, posters, exhibits, etc.
2. Films, movies, photographs prepared for promotional activities.
3. Expenses paid such as lodging, food, entertainment expenses.
4. Transportation by company auto or plane and public transportation of any mode.

b. 426 Miscellaneous Income Deductions. Immediately following the current text and item list, add the following:

(1) 426.7 Promotional Advertising Expenses.

(2) 426.8 Institutional or Goodwill Advertising Expenses.

(3) 426.9 Rate Justification Advertising Expenses.

c. 426.4 Expenditures for Certain Civic, Political, and Related Activities.

(1) Account 426.4 pertains to items in numbered paragraph 16.3(7)“a”(12)“1” and paragraph 16.3(7)“b.” This account will include the cost of labor, materials, and expenses incurred in advertising, whether on a national, regional, or local basis, that is designed to influence public opinion with respect to the election or appointment of public officials or the adoption, repeal, revocation, or modification of referenda, legislation, or ordinances. The account will also include expenditures for influencing the decisions of public officials not including such expenditures that are directly related to appearances before regulatory or other governmental bodies in connection with the utility’s existing or proposed operations.

(2) Entries relating to certain civic, political, and related activities included in this account will contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where certain civic, political, and related activities is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such activities charged to any member or subsidiary that is an Iowa gas utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.3(7)“c.”

(4) Labor items related to certain civic, political, and related activities:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting promotional motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

6. Direct supervision of certain civic, political, and related activities.

(5) Materials and expenses related to certain civic, political, and related activities:

1. Advertising in newspapers, periodicals, billboards, radio, etc.

2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, dodgers, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

NOTE: Franchise advertising and related expenses shall be charged to account 913.5 shown in paragraph 16.3(7) “h” or FERC account 302, Franchises and Consents.

d. 426.7 Promotional Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise, load factor advertising, or advertising that is part of a promotional practice, or a program that includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility’s energy efficiency plan developed pursuant to 199—Chapter 35.

(2) Entries relating to promotional advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where promotional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary that is an Iowa gas utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.3(7) “d.”

(4) Labor items related to promotional advertising include items in numbered paragraphs 16.3(7) “c”(4) “1” through “6.”

(5) Materials and expenses related to promotional advertising include:

1. Items in numbered paragraphs 16.3(7) “c”(5) “1” through “8.”
2. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.

NOTE A: Advertisements that set forth the value or advantages of utility service (without reference to specific appliances or if reference is made to appliances from dealers or refers to appliances not carried for sale by the utility) will be considered sales promotion advertising, and the cost will be charged to this account. However, advertisements that are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, will be considered as merchandise advertising, and the cost shall be charged to account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

NOTE B: Advertisements that substantially mention or refer to the value or advantages of utility service, together with specific reference to makes or appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, will be considered as a combination advertisement, and the costs shall be distributed between this account and account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of space, time, or other proportional factors.

e. 426.8 Institutional or Goodwill Advertising Expenses.

(1) This account shall include the cost of labor, materials, and expenses incurred in advertising that is designed to create, enhance, or sustain the utility’s image or goodwill to the general public or its customers.

(2) Entries relating to institutional or goodwill advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where institutional or goodwill advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such

advertising charged to any member or subsidiary that is an Iowa gas utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.3(7)“e.”

(4) Labor items related to institutional or goodwill advertising include items in numbered paragraphs 16.3(7)“c”(4)“1” through “6.”

(5) Materials and expenses related to institutional or goodwill advertising include items in numbered paragraphs 16.3(7)“c”(5)“1” through “8.”

Below are examples of the advertising to be included in this account:

EXAMPLE 1. Pronouncements primarily lauding the utility or the area or community the utility serves.

EXAMPLE 2. Advertising activities to inform the ratepayers of the social and economic advantages or status of the area or community the utility serves.

EXAMPLE 3. Advertising activities to inform the public of the utility’s participation in programs to improve the economic condition of the area or community the utility serves.

EXAMPLE 4. Advertising activities to inform the public of the utility’s role of good citizenship.

EXAMPLE 5. Information and routine data supplied by the utility to local governments, planning agencies, civic groups, businesses, and the general public that are not inclusive in account 909, Informational and Instructional Advertising Expenses. More information can be found in paragraph 16.3(7)“i.”

EXAMPLE 6. Advertising activities to inform the public of the utility’s consciousness of, or involvement in, health, safety, conservation, or environmental programs, except as included in account 909, Informational and Instructional Advertising Expenses. More information can be found in paragraph 16.3(7)“g.”

f. 426.9 Rate Justification Advertising Expenses.

(1) This account includes the cost of labor, materials, and expenses incurred in advertising, whether on a regional or local basis, that is designed to promote public acceptance of utility rate increases or the utility’s filed rates. The account also includes all costs incurred by the utility for advertising in opposition to the decision of the regulatory agency. However, the expenses associated with simply informing customers that new rates have been requested are to be recorded in FERC account 928, Regulatory Commission Expenses.

(2) Entries relating to rate justification advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary that is an Iowa gas utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.3(7)“f.”

(4) Labor items related to rate justification advertising include items in numbered paragraphs 16.3(7)“c”(4)“1” through “6.”

(5) Materials and expenses related to rate justification advertising include items in numbered paragraphs 16.3(7)“c”(5)“1” through “8.”

g. 909 Informational and Instructional Advertising Expenses.

(1) This account is amended to include the cost of labor, materials, and expenses incurred in advertising activities relating to the following: informing customers of the reasons for and methods whereby energy may be conserved and energy consumption reduced by the consumer; informing the public of the methods by which customers can participate with the utility in preserving and improving the environment; and information as to what the utility urges or suggests customers should do in utilizing gas service to protect their health and safety, and to utilize their gas equipment safely and economically.

1. Included in this account is advertising activity relating to the gas utility that is related directly to the company’s provision of service to the customer during energy, fuel, and related shortages.

2. Advertising that is primarily designed to laud the utility’s achievements or projects purporting to preserve or enhance the environment will be recorded in account 426.8. More information can be found in paragraph 16.3(7)“e.”

(2) Entries relating to informational and instructional advertising included in this account will contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising message will be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where informational and instructional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary that is an Iowa gas utility and included in this account will be determined in accordance with the text of this account as set forth in paragraph 16.3(7)“g.”

(4) Labor items related to informational and instructional advertising include items in numbered paragraphs 16.3(7)“c”(4)“1” through “6.”

(5) Materials and expenses related to informational and instructional advertising include items in numbered paragraphs 16.3(7)“c”(5)“1” through “8.”

Below are examples of the advertising to be included in this account:

EXAMPLE 1. Instructions in the proper use of equipment owned by the utility or the customer that will result in less consumption of energy.

EXAMPLE 2. Advertising designed to convince consumers to turn down thermostats or to employ other energy saving measures.

EXAMPLE 3. Instructions in the proper use of equipment owned by the utility or the customer that makes use of the utility’s service.

EXAMPLE 4. Information as to new rates, billing practices, new inspection, or meter-reading schedules.

EXAMPLE 5. Notification of emergency conditions and procedures to be followed during the emergency.

EXAMPLE 6. Advice concerning hazards associated with the utility’s gas service.

(6) Excluded from this account and charged to FERC account 930.2, Miscellaneous General Expenses, is the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also excluded are all expenses of promotional, institutional or goodwill, and political advertising. More information can be found in paragraphs 16.3(7)“c,” 16.3(7)“d,” and 16.3(7)“e,” which refer to accounts 426.4, Expenditures for Certain Civic, Political, and Related Activities; 426.7, Promotional Advertising Expenses; and 426.8, Institutional or Goodwill Advertising Expenses, respectively.

1. Advertising expenses directly related to obtaining a franchise or renewing an old franchise will be charged to FERC account 302, Franchises and Consents. Such amounts shall be maintained in a separate subaccount for ready identification.

2. Advertising expenses directly related to securing of new debt financing will be charged to FERC account 181, Unamortized Debt Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

3. Advertising expenses directly related to securing of new equity financing shall be charged to FERC account 214, Capital Stock Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

h. 913.5 Franchise Advertising Expenses.

(1) This account includes only reasonable advertising expenditures for the purpose of obtaining approval, modification, or revocation of franchises.

(2) Entries relating to reasonable franchise advertising included in this account contain or refer to supporting documents that identify the specific advertising message. If references are used, copies or scripts of the advertising matter are to be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Labor items related to franchise advertising include items in numbered paragraphs 16.3(7)“c”(4)“1” through “6.”

(4) Materials and expenses related to franchise advertising include items in numbered paragraphs 16.3(7)“c”(5)“1” through “8.”

16.3(8) FERC accounts 421.1, Gain on Disposition of Property, and 421.2, Loss on Disposition of Property, as they are defined and exist in the uniform systems of accounts, are to be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property, including land and land rights, unless otherwise authorized or required by the commission for good cause shown.

16.3(9) FERC accounts 105, Gas Plant Held for Future Use, and 105.1, Production Properties Held for Future Use, of the uniform systems of accounts in 18 CFR Part 201 are modified in subparagraph “D” by deleting the following language: “in accounts 411.6 or 411.7, as appropriate, except when determined to be significant by the Commission. Upon such determination, the amounts shall be transferred to account 256, Deferred Gains from Disposition of Utility Plant, or account 187, Deferred Losses from Disposition of Utility Plant, and amortized to accounts 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant, as appropriate,” and substituting in lieu thereof: “in FERC accounts 421.1, Gain on Disposition of Property, or 421.2, Loss on Disposition of Property, as appropriate, unless otherwise authorized or required by the board for good cause shown.”

199—16.4(476) Uniform systems of accounts—water. The 2024 uniform systems of accounts for Class A, B, and C water utilities adopted by the National Association of Regulatory Utility Commissioners (NARUC) Board of Directors on November 13, 2024, are adopted.

199—16.5(476) Uniform systems of accounts—wastewater and stormwater drainage. The 2024 uniform systems of accounts for wastewater and storm water drainage adopted by NARUC Board of Directors on November 13, 2024, are adopted.

199—16.6(476) Filing of promotional practices.

16.6(1) Each public utility subject to rate regulation shall file with the commission written documentation describing any proposed new promotional practice as defined in the commission’s uniform systems of accounts no less than 30 days prior to the practice’s expected implementation. All practices for which the costs are to be charged to account 424 (electric and gas) will be set forth. The accounts currently being charged with these practices will be listed. The company is to show the following data for each promotional practice:

- a.* The name, number, or letter designation of each such promotional practice.
- b.* The class of persons to which such promotional practice is being offered or granted.
- c.* Whether such promotional practice is being uniformly offered or granted to the persons within such class.
- d.* A description of such promotional practice, which includes a statement of the terms and conditions governing the same.
- e.* A description of the advertising or publicity employed with respect to such promotional practice.
- f.* If such promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of such affiliate or person and the nature of such party’s participation.
- g.* The expiration date of the practice, if known, or an estimated date.
- h.* Other information relevant to a complete understanding of such promotional practice.
- i.* The date or estimated date of the beginning of such promotional practices.

16.6(2) Any promotional practice, or program that includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility’s energy efficiency plan developed pursuant to 199—Chapter 35 will be deemed not to be a promotional practice for purposes of this rule and will be exempt from the requirements of this rule.

199—16.7(476) Compiling advertisements and expenses.

16.7(1) The burden of compiling and classifying advertisements and promotional expenses consistent with this chapter will be borne by public utility companies. In this connection the burden of proof as to the accuracy of such classifications and expenses, as with other cost items, will reside with the utility.

16.7(2) Where a given advertisement or group of advertisements may fall within more than one of the categories defined by the accounts in the Uniform Systems of Accounts—Electric, Gas, Water, Wastewater, and Stormwater Drainage as revised by this chapter, the utilities are to apportion the expenses of such advertisements between the categories.

16.7(3) Every advertisement published, broadcast, or otherwise displayed or disseminated to the public by a public utility that is to be paid for by the utility’s customers and is not required by the commission or other state or federal regulation is to include the following statement: “The cost of this ad will be paid for by the customers of (Company Name).” This requirement will not apply to advertisements for products or services that are or become subject to competition as determined by the commission or are treated and accounted for as part of a utility’s unregulated operations. When a public utility determines that the costs of an ad are to be charged in part to the customers and in part to the public utility, the public utility displays the following notice: “x% of the cost of this ad will be paid for by the customers of (Company Name).” Any statement included in advertisements under this rule will not affect the ability of the commission to determine the proper ratemaking treatment of the cost of the advertisement.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.8, 476.9, and 476.18.

ARC 8879C

UTILITIES COMMISSION[199]

Notice of Intended Action

Proposing rulemaking related to service supplied by rate-regulated electric utilities and providing an opportunity for public comment

The Utilities Commission hereby proposes to rescind Chapter 20, “Service Supplied by Rate-Regulated Electric Utilities,” 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, 476.1B, 476.2, 478.19 and 478.20.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.1A, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66 and 478.18.

Purpose and Summary

The Commission commenced this rulemaking under the provisions of Executive Order 10. This proposed chapter is intended to ensure there are clear rules and procedures for rate-regulated electric utilities operating within the state of Iowa subject to Iowa Code chapter 476. The Commission is proposing to rescind the existing Chapter 20 and repromulgate a new version of Chapter 20 with the removal of unnecessary and unneeded language and the reduction of restrictive terms.

The Commission issued an order requesting stakeholder comments on the proposed repromulgation of Chapter 20, the Commission’s rules that establish service supplied by rate-regulated electric utilities. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company; MidAmerican Energy Company; and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy filed comments addressing the proposed repromulgation.

The Commission reviewed the stakeholder comments and proposes the following repromulgation of the Commission’s rules for service supplied by rate-regulated electric utilities.

The Commission issued an Order Approving Regulatory Analysis on November 15, 2024. The Commission issued an order commencing rulemaking on December 19, 2024. The order is available on the Commission’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0020.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 10, 2024. A public hearing was held on the following date(s):

- August 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

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 20.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on March 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 11, 2025 9 to 11 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom
March 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 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
SERVICE SUPPLIED BY RATE-REGULATED ELECTRIC UTILITIES

199—20.1(476) General information.

20.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities commission shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content, and filing of reports, documents, and other papers necessary to carry out the provisions of this law.

a. Iowa Code chapter 478 provides that the Iowa utilities commission shall have power to make and enforce rules relating to the location, construction, operation, and maintenance of certain electrical transmission lines.

b. Electric utilities with fewer than 10,000 customers subject to commission regulation pursuant to Iowa Code section 476.1A are subject to the regulatory requirements set out in 199—Chapter 27 for municipal electric utilities and electric cooperatives.

20.1(2) *Application of rules.* These rules shall apply to any rate-regulated electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation, and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the commission that are in conflict with these rules.

a. 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.

b. The adoption of these rules shall in no way preclude the commission from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

20.1(3) *Definitions.* The following words and terms, when used in these rules, shall have the meaning indicated below:

“Acid Rain Program” means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

“Act” means the Clean Air Act, 42 U.S.C. Section 7401, et seq, as amended on November 15, 1990.

“Affected unit” means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the CAIR, the CSAPR, or the MATS or a unit or source that opts in under 40 CFR Part 74, dated April 4, 1995.

“Allowance” means an authorization, allocated by the United States Environmental Protection Agency (EPA), to emit sulfur dioxide (SO₂) under the Acid Rain Program or SO₂ and nitrogen oxide (NO_x) under the CAIR, and the CSAPR during or after a specified calendar year.

“Allowance futures contract” means an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

“Capacity” means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts (kW).

“Clean Air Interstate Rule” or *“CAIR”* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

“Code of Federal Regulations” or *“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 these rules], unless a separate effective date is identified in a specific rule.

“Complaint” means 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 obligation.

“Compliance plan” means the document submitted for an affected source to the EPA that specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

“*Cross-State Air Pollution Rule*” or “*CSAPR*” means the requirements established by the EPA in 40 CFR 97 Subparts AAAAA, BBBB, CCCCC, and DDDDD as amended by 81 FR 13275 (March 14, 2016).

“*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 electric service or heat from the electric 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.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Electric plant*” includes all real estate, fixtures, and property owned, controlled, operated, or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

“*Electric service*” means furnishing to the public for compensation any electricity, heat, light, power, or energy.

“*Emission for emission trade*” is an exchange of one type of emission for another type of emission. For example, the exchange of SO₂ emission allowances for NO_x emission allowances.

“*Energy*” means electric energy measured in kilowatt hours (kWh).

“*Master meter*” means a single meter used in determining the amount of electricity provided to a multitenant building or multiple buildings.

“*Mercury and Air Toxics Standards*” or “*MATS*” means the requirements established by the EPA in 40 CFR Parts 60 and 63 regarding limits of power plant emissions of toxic air pollutants (February 16, 2012).

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Power*” means electric power measured in kW.

“*Price hedging*” means using futures contracts or options to guard against unfavorable price changes.

“*Rate-regulated utility*” means any utility, as defined in subrule 20.1(3), that is subject to rate regulation under Iowa Code chapter 476.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer’s meter.

“*Service limiter*” or “*service limitation device*” means a device that limits a residential customer’s power consumption to 3,600 watts (or some higher level of usage approved by the commission) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

“*Speculation*” means using futures contracts or options to profit from expectations of future price changes.

“*Tariff*” means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the commission by an electric utility in fulfilling its role of furnishing service.

“*Timely payment*” means a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form, which 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 to the current bill or future collection efforts.

“Transmission line” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“Uniform system of accounts” means the uniform system of accounts as prescribed by 199—Chapter 16.

“Utility” means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

“Vintage trade” means an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

“Weighted average unit cost of inventoried allowances” equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

20.1(4) Abbreviations. The following abbreviations, when used in these rules, have the following meanings:

ANSI—American National Standards Institute

DOE—Department of Energy

FERC—Federal Energy Regulatory Commission

NFPA—National Fire Protection Association

This rule is intended to implement Iowa Code sections 476.1, 476.1A, and 476.2.

199—20.2(476) Records, reports, and tariffs.

20.2(1) Location and retention of records. Unless otherwise specified by this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

20.2(2) Tariffs to be filed with the commission. The schedules of rates and rules of rate-regulated electric utilities shall be filed with the commission and shall be classified, designated, arranged, and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification, and content of tariffs shall be in accordance with these rules. A rate-regulated electric utility’s current tariff will be made available through the commission’s electronic filing system (EFS).

20.2(3) Form and identification. All tariffs shall conform to the following rules:

a. The tariff shall be filed electronically using the commission’s EFS. The filed tariff shall be capable of being reproduced on 8½- by 11-inch paper so customers may readily view and reproduce copies of the tariff. 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 “Electric Tariff filed with Iowa Utilities 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 will show:

(1) The first page shall be the title page that shall show:

(Name of Public Utility)

Electric Tariff

Filed with

Iowa Utilities Commission

(Date)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it supersedes a tariff on file and the number being superseded or replaced, for example:

tariff no. _____

supersedes tariff no. _____

(3) When a new part of a tariff eliminates an existing part of a tariff, it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols described below to indicate the place, nature, and extent of the change in text.

—Symbols—

- (C)—Changed 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 reduced rate
- (T)—Change in text only

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility, followed by the words “Electric Tariff filed with Iowa Utilities Commission.” If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(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)
Electric Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content or 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 be left blank by rate-regulated utilities and shall 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.

20.2(4) Content of tariffs.

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet numbers of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing the rate schedules or other sections, it may at its option prepare a separate table of contents for each such segregated section.

b. A preliminary statement containing a brief general explanation of the utility’s operations.

c. All rates for service with indication for each rate of the type and voltage of service and the class of customers to which it applies. There shall also be shown any limitations on loads and type of equipment that may be connected, the net prices per unit of service and the number of units per billing period to which the net prices apply, the period of billing, the minimum bill, any effect of transformer capacity upon minimum bill or upon the number of kWh in any step of the rate, method of measuring demands, method of calculating or estimating loads in cases where transformer capacity has a bearing upon minimum bill or size of rate steps, level payment plan, and any special terms or conditions applicable. 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.

d. The voltage and type of service (direct current or single or polyphase alternating current) supplied in each municipality but without reference required to any particular part thereof.

e. Forms of standard contracts required of customers for the various types of service available.

f. If service to other utilities or municipalities is furnished at a standard filed rate, either a copy of each signed contract or a copy of the standard uniform contract form together with a summary of the provisions of each signed contract. The summary shall show the principal provisions of the contract and include the name and address of the customer, the points where energy is delivered, rate, term, minimum, load conditions, voltage of delivery, and any special provisions such as rentals.

g. Copies of special contracts for the purchase, sale, or interchange of electrical energy. All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, 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.

h. A list of all communities in which service is furnished.

i. The list of service areas and the rates, filed in a form to facilitate ready determination of the rates available in each municipality and in unincorporated communities that have service. Any areas with the same rates shall be indicated.

j. Definitions of classes of customers.

k. Extension rules for extending service to new customers indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included.

l. Type of construction that the utility requires the customer to provide if in excess of the Iowa electric safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent.

m. Specification of such portions of service as the utility furnishes, owns, and maintains, such as service drop, service entrance cable or conductors, conduits, service entrance equipment, meter and socket. Indication of the portions of interior wiring such as range or water heater connection, furnished in whole or in part by the utility, and a statement indicating final ownership and responsibility for maintaining equipment furnished by utility.

n. A statement of the type of special construction commonly requested by customers that the utility allows to be connected, and terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

o. Rules with which prospective customers must comply as a condition of receiving service and the terms of contracts required.

p. Rules governing the establishment and maintenance of credit by customers for payment of service bills.

q. Rules governing the procedure followed in disconnecting and reconnecting service.

r. Notice required from a customer for having service discontinued.

s. Rules covering temporary, emergency, auxiliary, and stand-by service.

t. Rules covering the type of equipment that may or may not be connected, including rules such as those requiring demand-limiting devices or power-factor corrective equipment.

u. A general statement of the method used in making adjustments for wastage of electricity when accidental grounds exist without the knowledge of the customer.

v. Statements of utility rules on meter reading, bill issuance, customer payment, notice of delinquency, and service discontinuance for nonpayment of bill.

w. Rules for extending service in accordance with subrule 20.3(11).

x. If a sliding scale or automatic adjustment is applicable to regulated rates and charges of billed customers, the manner and method of such adjustment calculation, covered through a detailed explanation.

y. Rules on how a customer or prospective customer should file a complaint with the utility and how the complaint will be processed.

z. 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.

20.2(5) *Annual, periodic and other reports to be filed with the commission.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with the general requirements of subrule 20.3(9) and a statement as to the location of the utility's offices where such maps, except those deemed confidential by the commission, are accessible and available for examination by the commission or its agents. The verification and map location information shall also be reported to the commission upon other occasions when significant changes occur in either the maps or location of the maps.

b. Electric service record. Each utility shall compile a monthly record of electric service showing the production, acquisition, and disposition of electric energy; the number of customer terminal voltage investigations made; the number of customer meters tested; and such other information as may be required by the commission. The monthly "Electric Service" record shall be compiled not later than 30 days after the end of the month covered, and such record shall, upon and after compilation, be kept available for inspection by the commission or its staff at the utility's principal office within the state of Iowa. A summary of the 12 monthly "Electric Service" records for each calendar year shall be attached to and submitted with the utility's annual report to the commission.

c. The utility shall keep the commission informed currently by written notice as to the location at which the utility keeps the various classes of records required by these rules.

d. The utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be maintained and made available to the commission upon request.

e. A copy of each type of customer bill form in current use shall be filed with the commission.

f. A copy of the adjustment calculation shall be provided to the commission prior to each billing cycle on the forms adopted by the commission.

g. Residential customer statistics. Each rate-regulated electric 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;
- (4) Number of accounts eligible for energy assistance and past due;
- (3) Number of accounts 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 determined uncollectible; and
- (12) Number of accounts eligible for energy assistance and determined uncollectible.

h. List of persons authorized to receive commission inquiries.

(1) Each utility shall file with the commission in the annual report required in 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;
5. Franchises for electric lines;
6. Certificates for electric generating plants; and
7. Outages and interruptions 24 hours a day.

(2) The contact information required by this paragraph shall be kept current as changes or corrections are made.

This rule is intended to implement Iowa Code section 476.2.

199—20.3(476) General service requirements.

20.3(1) Disposition of electricity. The meter, any associated instrument transformers, and the wiring between the instrument transformers and the meters shall be owned by the utility. The utility shall place a visible seal on all meters in customer use, such that the seal must be broken to gain entry.

- a. All electricity sold by a utility shall be on the basis of meter measurement except:
 - (1) Where the consumption of electricity may be readily computed without metering; or
 - (2) For temporary service installations not otherwise metered.
- b. The amount of all electricity delivered to multitenant buildings shall be measured on the basis of individual meter measurement for each unit, except in the following instances:
 - (1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;
 - (2) Where a facility is designated for elderly or handicapped persons;
 - (3) Where submetering or resale of service was permitted prior to 1966;
 - (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. The cost of providing individual metering exceeds the long-term benefits of individual metering.
 - (5) Where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.
 1. A new multitenant building qualifies for master metering under this subparagraph if the predicted annual energy use would result in at least a 30 percent energy savings compared to the predicted annual energy use of a new building meeting the requirements of the State of Iowa Energy Code and operating with equipment, fixtures, and appliances meeting federal energy standards for manufactured devices for a new building.
 2. An existing multitenant building qualifies for master metering under this subparagraph when the predicted annual energy use would result in at least a 20 percent energy savings compared to the building’s current annual energy usage levels.
 3. In determining whether a building’s predicted annual energy use would result in at least a 20 or 30 percent energy savings, all relevant factors that decrease the building’s energy usage may be considered, so long as each factor is relevant to why master metering more effectively reduces or controls the building’s energy 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. Credits for on-site renewable energy generation shall not be taken into account when determining the predicted energy savings.
 5. A report from a qualified, independent third party stating that the proposed building or renovation will meet the energy 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 rater, or any other professional deemed qualified by the commission.
- c. If a multitenant building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric 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. Multitenant buildings within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 20.3(1) “c” have been met.
- e. All electricity 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.

20.3(2) Meter reading records. The meter reading records shall show:

- a. Customer’s name, address, and rate schedule or identification of rate schedule.

- b. Identification of the meter or meters either by permanently marked utility number or by manufacturer's name, type number and serial number.
- c. Meter readings.
- d. If the reading has been estimated.
- e. Any applicable multiplier or constant.

20.3(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 such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter. A utility may comply with the requirements of this subrule by making the required information available via the Internet or other equivalent means.

Where a delayed processing means is used, the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard, the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

20.3(4) *Meter reading and billing interval.* 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. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the commission. If the commission denies a waiver, or if a waiver is not sought with respect to a high-demand customer after the initial month, that customer's meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter reading period. When 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 bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone, by electronic means, or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. 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.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned 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.

20.3(5) *Demand meter registration.* When a demand meter is used for billing, the meter installation should be designed so that the highest expected annual demand reading to be used for billing will appear in the upper half of the meter's range.

20.3(6) *Service areas.* Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing during regular business hours at the commission's offices and on the commission's website.

20.3(7) *Modification of service area and answers.*

a. An exclusive service area is subject to modification through a contested case proceeding that may be commenced by filing a petition for modification of service area with the commission. The commission may commence a service area modification proceeding on its own motion. In determining whether the modification is in the public interest, the commission will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

b. An electric utility may file a petition for modification of service area containing (1) a legal description of the service area desired, (2) a designation of the utilities involved in each boundary section, (3) a justification for the proposed service area modification, and (4) in addition to the PDF (Portable Document Format) required in rule 199—14.8(17A,476), an electronic file of the proposed service area boundaries, in a format designated by the commission, as described on the EFS homepage under EFS Filing Standards. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas that complies with paragraph 20.3(9) "a" shall be attached to the petition as an exhibit.

c. Electric utilities may agree to service area modifications by contract pursuant to Iowa Code section 476.25(2).

20.3(8) *Certificate of authority.* Any electric utility or municipal corporation requesting a service territory modification pursuant to subrule 20.3(7) that would result in service to a customer by a utility other than the utility currently serving the customer must also petition the commission for a certificate of authority under Iowa Code section 476.23. The electric utility or municipal corporation shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

20.3(9) *Maps.*

a. Each utility shall maintain a current map or set of maps, including KMZ or other similar format, showing the physical location of electric lines, stations, and electric transmission facilities for its service areas, which include the exact location of the following:

- (1) Generating stations with capacity designation.
- (2) Purchased power supply points with maximum contracted capacity designation.
- (3) Purchased power metering points if located at other than power delivery points.
- (4) Transmission lines with size and type of conductor designation and operating voltage designation.
- (5) Transmission-to-transmission voltage transformation substations with transformer voltage and capacity designation.
- (6) Transmission-to-distribution voltage transformation substations with transformer voltage and capacity designation.
- (7) Distribution lines with size and type of conductor designation, phase designation, and voltage designation.
- (8) All points at which transmission, distribution, or secondary lines of the utility cross Iowa state boundaries.
- (9) All current information required in Iowa Code section 476.24(1).
- (10) All county boundaries and county names.
- (11) Natural and artificial lakes that cover more than 50 acres and all rivers.
- (12) Any additional information required by the commission.

b. All maps, except those deemed confidential by the commission, shall be available for examination at the utility's designated offices during the utility's regular office hours or on the utility's website. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

20.3(10) *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.

20.3(11) *Plant additions, electrical line extensions and service lines.*

a. Definitions. The following definitions shall apply to the terms used 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 an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the extensive plant addition or electrical line 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 tax liability.

“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 shall be deemed to be 30 days.

“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.

“Electrical line extensions” means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for service lines as defined in this subrule.

“Equivalent overhead transformer cost” is that transformer capitalized cost, or fraction thereof, that would be required for similarly situated customers served by a pole-mounted or platform-mounted transformer(s). For each overhead service, it is the capitalized cost of the transformer(s) divided by the number of customers served by that transformer(s). For each underground service, it is the capitalized cost of an overhead transformer(s) with the same voltage and volt-ampere rating divided by the number of customers served by that transformer(s).

“Estimated annual revenues” is calculated based upon the following factors, including but not limited to the size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

“Estimated base revenues” is calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the commission and energy efficiency charges from the estimated annual revenues.

“Estimated construction costs” is 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 electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except equivalent overhead transformer cost; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs 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 required to be constructed to provide service to a customer other than an electrical line extension or service line.

“Point of attachment” is that point of first physical attachment of the utilities’ service drop (overhead) or service lateral (underground) conductors to the customer’s service entrance conductors. For overhead services, it shall be the point of tap or splice to the service entrance conductors. For underground services, it shall be the point of tap or splice to the service entrance conductors in a terminal box or meter or other enclosure with adequate space inside or outside the building wall. If there is no terminal box, meter, or other enclosure with adequate space, it shall be the point of entrance into the building.

“Service line” means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.

“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.

“Utility” means a rate-regulated utility.

b. *Plant additions.* The utility shall provide all electric 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. *Electrical line extensions.* Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The utility may use a feasibility model to determine whether an advance for construction is required. The utility shall file a summary explaining the inputs into the feasibility model 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. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model 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. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer is required to make an advance for construction, the utility shall refund 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 electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated construction cost to provide the electrical line extension, the entire amount of the advance for construction provided will be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded will equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the electrical line extension.

3. In no event will the total amount to be refunded exceed the amount of the advance for construction. Any amounts subject to refund will be paid by the utility without interest. At the expiration of the above-described ten-year period, the advance for construction record will be closed and the remaining balance will be credited to the respective plant account.

(6) The utility shall keep a record of each work order under which the electrical line 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 either an overhead or underground service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(2) Where the length of the overhead service line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service line on private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

$$(\text{Estimated Construction Costs}) \times \frac{(\text{Total Length in Excess of 50 Feet})}{(\text{Total Length of Service Line})}$$

(3) Where the cost of the underground service line exceeds the estimated cost of constructing an equivalent overhead service line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service line and the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers or members.

(5) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

e. Extensions not required. Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule unless the electrical line 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 the cost of installing and removing the service in excess of any salvage realized.

f. Different payment arrangement. This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

This rule is intended to implement Iowa Code section 476.8.

199—20.4(476) Customer relations.**20.4(1) Customer information.** Each utility shall:

- a. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, together 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 prospective customers in its service area.
- b. Assist the customer or prospective customer in selecting the most economical rate schedule available for the customer's 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 (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. The utility shall provide access to its rate schedules and rules for service on its website, and 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 or on the utility's website. If the utility provides access to its tariff and rate schedules on its website, the bill form 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 electricity for each billing during the prior 12 months.
- h. Furnish such additional information as the customer may reasonably request.

20.4(2) Customer contact employee qualifications. Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls, emails, or 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.

a. 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 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 Avenue, Des Moines, IA 50319, or by email to customer@iuc.iowa.gov." Any utility that does not use the standard statement described in this subrule will file its proposed statement in its tariff for approval.

b. The bill insert or notice on the bill shall be provided monthly.

20.4(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 shall 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 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 shall 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. No written notice is required to be given 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.

20.4(4) *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. Rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. 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, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

20.4(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.

20.4(6) *Customer's receipt for a deposit.* Each utility shall issue a receipt of deposit to each customer from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is lost.

20.4(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. For refund purposes the account shall be reviewed for prompt payment 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 exemption provided by paragraph 20.4(3) "b," 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.

20.4(8) *Unclaimed deposits.* The utility shall 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 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, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

20.4(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 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 shall be clearly shown and shall be not less than 20 days after the bill is provided.
- g. A distinct marking to identify an estimated bill.
- 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.
- j. Customer billing information alternate. A utility serving less than 5,000 electric customers may provide the information in this subrule on bill form or otherwise. If the utility elects not to provide this

information, it shall advise the customer, on bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

20.4(10) *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 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, 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. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties.

2. The agreement shall also include a 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 paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the customer.

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 stated in the written document. The document stating the terms and conditions of the agreement 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.

12. A customer shall not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement.

(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 be required to 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 to the customer, 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 handed to the customer or when delivered to the last-known address of the customer.

A customer may ask the commission for assistance in working out a reasonable payment agreement. The request for assistance must be made to the commission within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

20.4(11) Bill payment terms. The bill shall be 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 shall be considered provided when delivered to the last-known address of the customer. There shall not be less than 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 20.3(4) may not be considered delinquent less than five days from the date the bill is provided. However, a late payment charge may 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 3,000 kWh 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. In no case, however, shall the utility be 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 prohibits any effect upon the credit rating of the customer or 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 3,000 kWh per month. A budget billing plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The budget billing plan shall 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 shall be allowed the option of obtaining a refund or applying 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 of this subrule. The computation method used by the utility shall be described in the utility's tariff and shall be subject to commission approval. The utility shall give notice to customers when it changes the type of computation method in the budget billing plan.

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 shall 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.

When the budget billing amount is recomputed, the budget billing plan account balance shall be divided by 12 and the resulting amount shall be added 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 shall be given the option of applying any credit to payments of subsequent months' budget billing amounts due or of obtaining a refund of any credit in excess of \$25.

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 period 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.

(5) Irrespective of the account balance, a delinquency in payment shall be 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.

20.4(12) *Customer records.* The utility shall retain records as may be necessary to effectuate compliance with subrules 20.4(13) and 20.6(6), but not less than five years. Records for a customer shall show, where applicable:

- a. kWh meter reading;
- b. kWh consumption;
- c. kW meter reading;
- d. kW measured demand;
- e. kW billing demand; and
- f. Total amount of bill.

20.4(13) *Adjustment of bills.*

a. *Meter error.* Whenever a meter creeps or whenever a metering installation is found upon any test to have an average error of more than 2.0 percent for watt-hour metering, or a demand metering error of more than 1.5 percent in addition to the errors allowed under accuracy of demand metering, an adjustment of bills for service for the period of inaccuracy shall be made in the case of overregistration and may be made in the case of underregistration. The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watt-hour metering installations, the average accuracy shall be the arithmetic average of the percent registration at 10 percent of rated test current and at 100 percent of rated test current, giving the 100 percent of rated test current registration a weight of four and the 10 percent of rated test current registration a weight of one.

b. Determination of adjustment. Recalculation of bills shall be on the basis of actual monthly consumption, except that if service has been measured by self-contained single-phase meters or three-wire network meters and involves no billing other than for kWh, the recalculation of bills may be based on the average monthly consumption determined from the most recent 36 months' consumption data.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed. The periods of error shall be used as defined in subparagraphs 20.4(13) "b"(1) and 20.4(13) "b"(2).

(1) Overregistration. If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error 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.

The overregistration due to creep shall be calculated by timing the rate of creeping and assuming that the creeping affected the registration of the meter for 25 percent of the time since the more recent of either metering installation or last previous test.

(2) Underregistration. If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the commission.

The underregistration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration for 25 percent of the time since the more recent of either metering installation or last previous test, except that billing adjustment shall be limited to the preceding six months.

c. Refunds. If the recalculated bills due to overregistration 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 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 found to be in error. 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.

d. Back billing. A 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, but may be greater 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.

Back billings shall be provided no later than six months following the date of the metering installation test.

e. 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 shall not exceed five years unless otherwise ordered by the commission.

f. 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 shall 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.

g. Credits and explanations. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

20.4(14) Refusal or disconnection of service. A utility shall refuse service or disconnect service to a customer, as defined in subrule 20.1(3), 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 20.4(14) “b.” The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice 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 notice shall be considered provided when delivered to the last-known address of the customer. 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 20.3(4) 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 on the customer’s premises 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, for the withdrawal of that same equipment, 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 20.4(15) and 20.4(16), 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 20.3(6) 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 electric 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 “electric” with the words “gas and electric” in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my 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);
- c. Apply for and become eligible for low-income energy assistance (see #3 below);
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric 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, you are to be offered an initial 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. To prevent disconnection, contact the utility prior to disconnection of your service.
- 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.

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 payment arrangements have 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 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 at 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. The service shall be restored for 30 days if the customer provides the utility with medical verification from a doctor or public health official of an especial danger to health within 14 days of a shut off for nonpayment.

b. If you make your payment during 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 that 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 Ave., Des Moines, IA 50319, or 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) If the utility has adopted a service limitation policy pursuant to subrule 20.4(21), the following paragraph shall be appended to the end of the standard form for the summary of rights and responsibilities, as set forth in subparagraph 20.4(14) "d"(3):

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(5) When disconnecting service to a residence, the utility made a diligent attempt to contact, by telephone or in person, the customer 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. The utility shall make a diligent attempt to inform the landlord 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.

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility 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 shall be extended if requested of the utility by the commission in the event the customer files a written complaint with the commission in compliance with 199—Chapter 6.

(7) 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 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.

(8) Severe cold weather. A disconnection may not take place where electricity 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.

(9) 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 20.4(14) "f."

(10) 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, as well as members of the household named in the application. 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.

(11) 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 electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption that appears to the customer to be abnormally high, may request the utility to assist in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall assist by discussing patterns of electric 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 electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

g. The utility shall, prior to November 1, 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 must 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.

20.4(15) *Insufficient reasons for denying service.* The following shall 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 20.4(13) "d."
- f.* Failure to pay a bill provided in accordance with paragraph 20.4(13) "f."
- 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.
- j.* Delinquency in payment for service that arose on or before September 4, 2010, pursuant to an oral contract, except in cases of fraud or deception that prevented the utility from timely addressing such delinquencies with the customer.

20.4(16) *When disconnection is prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident 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.

20.4(17) *Estimated demand.* Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operation and use the measured demand for billing.

20.4(18) *Servicing utilization control equipment.* Each utility shall service and maintain any equipment it uses on a customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches, or other devices that control the customer's service in accordance with the provisions in the utility's rate schedules.

20.4(19) *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be 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.

20.4(20) *Change in type of service.* If a change in the type of service or a change in voltage to a customer's substation is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the commission in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

a. Loss of value in electrical power utilization equipment,

b. Cost of changes in wiring, and

c. Cost of removing old and installing new utilization equipment.

20.4(21) *Limitation of service.* The utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff and contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the commission's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this subrule, "electric heating" applies to heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-

free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

f. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

g. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(14) “*f.*”

This rule is intended to implement Iowa Code sections 476.6, 476.8, 476.20, and 476.54.

199—20.5(476) Engineering practice.

20.5(1) Requirement for good engineering practice. The electric plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the electric 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.

20.5(2) Standards incorporated by reference. The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the commission.

- a.* Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- b.* National Electrical Code, ANSI/NFPA 70-2023, as published September 14, 2022.
- c.* American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2016, as approved August 21, 2017; and C57.13.3-2016, as approved August 21, 2017.
- d.* American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2020, as published September 3, 2020.
- e.* Recommended Practice for Grounding of Industrial and Commercial Power Systems, IEEE 3003.1-2019, as published August 9, 2019.
- f.* IEEE Standard 1159-2019, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard, as published August 13, 2019.
- g.* IEEE Standard 519-2022, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems, as published August 5, 2022.
- h.* At railroad crossings, as described in rule 199—42.6(476).

20.5(3) Adequacy of supply and reliability of service. The generating capacity of the utility’s plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

In appraising adequacy of supply the commission will segregate electric utilities into two classes viz., those having high capacity transmission interconnections with other electrical utilities and those that lack such interconnection and are therefore completely dependent upon the firm generating capacity of the utility’s own generating facilities.

a. In the case of utilities having interconnecting ties with other utilities, the commission will, upon appraising adequacy of supply, take appropriate notice of the utility’s recent past record, as of the date of appraisal, of any widespread service interruptions and any capacity shortages along with the consideration of the supply regularly available from other sources, the normal demands, and the required reserve for emergencies.

b. In the case of noninterconnected utilities, the commission will give attention to the maximum total coincident customer demand that could be satisfied without the use of the single element of plant equipment, the disability of which would produce the greatest reduction in total net plant productive

capacity and also give attention to the normal demands for service and to the reasonable reserve for emergencies.

This rule is intended to implement Iowa Code sections 476.8 and 478.18.

199—20.6(476) Metering.

20.6(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 publications listed in subrule 20.6(3) are representative of accepted good practice. Each utility shall maintain inspecting and testing records for each meter and associated device until three years after its retirement.

20.6(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 they are placed in service.
- c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments, or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan but shall include meters removed from service for any reason.
- d. Periodic calibration or testing of devices or instruments used by the utility to test meters.
- e. The limits of meter accuracy considered acceptable by the utility.
- f. The nature of meter and meter test records that will be maintained by the utility.

20.6(3) *Accepted good practice.* The American National Standard Code for Electricity Metering, ANSI C12.1-2022, as approved June 9, 2022, is considered to be representative of accepted good practice in matters of metering and meter testing.

20.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

20.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing for that customer but need not test more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test, and a record of each test shall be kept and made available upon request. 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.

20.6(6) *Referee tests.* Upon written request by a customer or utility, the commission will conduct a referee test of a meter but need not test more frequently than once in 18 months. The customer request shall be accompanied by a \$30 deposit made payable to the utility.

Within five days of receipt of the written request and payment, the commission shall forward the deposit to the utility and notify the utility of the requirement for a 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 shall be made as required in subrule 20.4(13). The commission shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

20.6(7) *Condition of meter.* No meter that is known to be mechanically or electrically defective, or to have incorrect constants, or that has not been tested and adjusted if necessary in accordance with these rules shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the electricity requirements of the customer.

20.6(8) *Comprehensive meter upgrade programs.*

a. A utility may forgo the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) if:

(1) The meters are removed or scheduled to be removed as part of a comprehensive meter upgrade program over a specified period not to exceed three years;

(2) The meters being removed have not previously been shown to be inaccurate or otherwise faulty;

(3) The utility either retains the removed meters for a period of one year from the removal date to allow customers the opportunity to challenge a meter's accuracy or tests a representative statistical sample based upon an industry standard such as ANSI C12.1-2022 of each type of meter being removed as part of the program and maintains the removed meters for a period of at least six months; and

(4) The utility tests any meter upon request of a customer based upon the customer's experience comparing the replaced and replacement meters.

b. Prior to forgoing its testing procedures under this subrule, a utility shall notify the commission that the utility is engaging in a comprehensive meter upgrade program. The notice shall state the option the utility is electing to pursue under subparagraph 20.6(8) "a"(3), the specified period of the program, and the expected number of meters to be upgraded. A utility electing to test a statistical sample of removed meters under subparagraph 20.6(8) "a"(3) shall also state the industry standard it will use to determine the sample size and provide the full text of the standard to the commission upon request.

c. A utility shall continue to follow the meter testing procedures for meters removed for any reason unrelated to the comprehensive meter upgrade program.

d. A utility shall resume the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) upon completion of the comprehensive meter upgrade program or the end of the specified period, whichever occurs first.

199—20.7(476) Standards of quality of service.

20.7(1) Standard frequency. The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits that will permit the satisfactory operation of customer's clocks connected to the system.

20.7(2) Voltage limits retail. Each utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at paragraph 20.5(2) "d."

20.7(3) Voltage balance. Where three-phase service is provided, the utility shall exercise reasonable care to ensure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

20.7(4) Voltage limits, service for resale. The nominal voltage shall be as mutually agreed upon by the parties concerned. The allowable variation shall not exceed 7.5 percent above or below the agreed-upon nominal voltage without the express approval of the commission.

20.7(5) Exceptions to voltage requirements. Voltage outside the limits specified will not be considered a violation when the variations:

a. Arise from the action of the elements.

b. Are infrequent fluctuations not exceeding five minutes in duration.

c. Arise from service interruptions.

d. Arise from temporary separation of parts of the system from the main system.

e. Are from causes beyond the control of the utility.

f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

20.7(6) Voltage surveys and records. Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

20.7(7) Each utility shall make a sufficient number of voltage measurements in order to determine if voltages comply with subrules 20.7(2), 20.7(3), and 20.7(4). All records obtained under this subrule shall be retained by the utility for at least two years and shall be available for inspection by the commission's representatives. Notations on each chart shall indicate the following:

- a. The location where the voltage was taken.
- b. The time and date of the test.
- c. The results of the comparison with a working standard indicating voltmeter.

20.7(8) Equipment for voltage measurements.

- a. *Secondary standard indicating voltmeter.* Each utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.
- b. *Working standard indicating voltmeters.* Each utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.
- c. *Recording voltmeters.* Each utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

20.7(9) Extreme care must be exercised in the handling of standards and instruments 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.

20.7(10) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

20.7(11) Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at paragraph 20.5(2) "f."

20.7(12) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at paragraph 20.5(2) "g."

This rule is intended to implement Iowa Code sections 476.2 and 476.8.

199—20.8(476) Safety.

20.8(1) *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and 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 and fitted to the size and type of its operations. A utility shall include in its safety program procedures for notifying the commission and the public of an incident involving a component of a wind turbine, solar facility, storage facility, or any other generating facility where the incident has resulted in damage to adjacent property or members of the public.

20.8(2) *Accident investigation and prevention.* The utility shall give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

20.8(3) *Reportable accidents.* Each utility shall maintain a summary of all reportable accidents, as defined in the "accident reports" rule of 199—Chapter 25, arising from its operations.

20.8(4) *Grounding of secondary distribution system.* Unless otherwise specified by the commission, each utility shall comply with, and encourage its customers to comply with, the applicable provisions of the acceptable standards listed in subrule 20.5(2) for the grounding of secondary circuits and equipment.

Ground connections should be tested for resistance at the time of installation. The utility shall keep a record of all ground resistance measurements.

The utility shall establish a program of inspection so that all artificial grounds installed by it shall be inspected within reasonable periods of time.

199—20.9(476) Electric energy automatic adjustment. The electric energy cost adjustment of the unit charge shall be an energy adjustment clause.

20.9(1) *Applicability.* A utility's electric energy adjustment shall recover from consumers only those costs that:

- a. Are incurred in supplying energy;
- b. Are beyond direct control of management;
- c. Are subject to sudden important change in level;
- d. Are an important factor in determining the total cost to serve; and
- e. Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) *Energy adjustment clause.* Prior to any period in which a utility proposes to change the adjustment amount for each energy unit delivered to the customer, the utility shall determine and file for commission approval the adjustment amount to be charged for each energy unit delivered under rates set by the commission. The energy adjustment clause factors shall be printed on the customer's bill. The filing shall include all invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. Spreadsheets, workbooks, and databases included in filings shall include all cell formulae and cell references. Utilities that participate in a wholesale energy market and use a forecasted energy adjustment clause shall provide information about key inputs and assumptions and explain the differences between the forecast and actual fuel costs. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, emission allowances, and other costs.

a. The utility shall keep and maintain journal entries to reflect a breakdown of the following for each type of fuel: actual cost of fuel, transportation costs, and other costs. Items identified as other costs should be described, and their inclusion as fuel costs shall be approved by the commission. The commission may direct that journal entries be filed. The utility shall also file detailed supporting data:

- (1) To show the actual amount of sales of energy by month for which an adjustment was utilized, and
- (2) To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

b. The energy adjustment shall provide for change of the price per kWh delivered under rates set by the commission based upon the formulas provided in the utility's tariff. The energy adjustment factor shall be rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. The tariff shall define the components of the formula(s) and shall include reference to the specific accounts of the Uniform System of Accounts for each component.

(1) For each period as specified in the tariff, the calculation shall include but not be limited to:

1. The estimated energy cost and revenues;
2. The estimated electric energy to be delivered and entered in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which the energy adjustment charge will be used; and
3. The energy cost adjustment account balance.

(2) The base formula for the energy adjustment factor shall be:

Energy adjustment factor = (energy cost adjustment account balance + estimated energy costs and revenues) / estimated energy delivered

c. The estimated energy cost and revenues shall be the estimated cost and revenues associated with:

- (1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel that has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects, the energy cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of paragraph 20.9(2) "c."

(5) The energy costs paid for energy purchased under arrangements or contracts, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from alternative energy production facilities under the commission's "additional rate-regulated utility obligations regarding AEP facilities" rule in 199—Chapter 15.

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.16(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under the "alternate energy purchase programs" rule of 199—Chapter 15.

(10) Federal production tax credits unless the commission approves different ratemaking treatment.

(11) Other costs and revenues as specified in the utility's tariff and approved by the commission. For all other costs and revenues, the utility shall provide the type of cost, the dollar amount, and reference to the commission order approving the cost to be included in the energy adjustment clause.

d. The energy cost adjustment account balance shall be the cumulative balance of any excess or deficiency that arises out of the difference between commission recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the commission. The calculation for the energy cost adjustment account balances shall include but not be limited to:

(1) The actual energy expense for the prior period and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts;

(2) The actual electric energy delivered for the prior period and recorded in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts; and

(3) The beginning energy cost adjustment account balance (overrecovered or underrecovered amount) for the current period.

e. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace the energy normally received from nuclear sources. A surcharge would be added to each kWh from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

f. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the commission monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

- (3) The number and unit price of allowances sold during the month;
 - (4) The weighted average unit cost of allowances remaining in inventory;
 - (5) The dollar amount of any gain from an allowance sale occurring during the month;
 - (6) The dollar amount of any loss from an allowance sale occurring during the month; and
 - (7) Documentation of any gain or loss from an allowance sale occurring during the month.
- g. The energy adjustment clause factor may include other automatic adjustment mechanisms as approved by the commission.

20.9(3) *Utilities not making monthly changes to the adjustment amount.* Utilities that do not file monthly adjustments shall:

- a. File the information pursuant to subrule 20.9(2) on a quarterly basis.
- b. File an annual reconciliation of the EAC factor and an update to the EAC factor. The date of the annual reconciliation and update shall be specified in the utility's tariff. The reconciliation shall follow the requirements of subrule 20.9(2).
- c. Include a semiannual adjustment if the absolute value of the cumulative over recovery or under recovery amount is greater than 20 percent of the forecasted net recoverable energy costs for the EAC year. The semiannual adjustment filing shall be filed six months after the annual reconciliation and update filing and shall follow the requirements of subrule 20.9(2) but will be limited to the remaining months of the year. The semiannual factor updates may utilize updated forecasts for the costs and sales for the remainder of the year.

20.9(4) *Review of energy adjustment clause.* At least biennially, but no more than annually, the commission shall require each utility that owns generation and utilizes an energy adjustment clause to provide fuel, freight, and transportation invoices from two months of the previous calendar year. The utility shall include an explanation of and demonstrate how these invoices correspond to the energy adjustment clause calculations. The explanation shall include inventory accounting information and average cost of fuel and transportation included in the energy adjustment clause calculations. The commission will notify each utility by May 1 as to which two months' invoices will be required. These invoices shall be filed with the commission no later than the subsequent November 1.

20.9(5) *Annual reports.* With the first filing of the utility's EAC year, each utility participating in a wholesale market shall file a report explaining how participation results in reduced customer rates or reduces increases in customer rates, identifying current and evolving market issues that are expected to impact rates, and describing the utility's efforts to influence market issues for the benefit of customers.

199—20.10(476) Ratemaking standards.

20.10(1) *Coverage.* Standards for ratemaking shall apply to all rate-regulated utilities in the state of Iowa. The commission may, by rule or by order in specific cases, exempt a utility or class of utilities from any or all ratemaking standards. The standards are recommended to all service-regulated utilities in this jurisdiction.

20.10(2) *Cost of service.* Rates charged by an electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reasonably reflect the costs of providing electric service to the class. The methods used to determine class costs of service shall to the maximum extent practical permit identification of differences in cost-incurrence, for each class of electric consumers, attributable to daily and seasonal time of use of service, and permit identification of differences in cost-incurrence attributable to differences in demand, energy, and customer components of cost.

The design of rates should reasonably approximate a pricing methodology for any individual utility that would reflect the price system that would exist in a competitive market environment. For purposes of determining revenue requirements among customer classes, embedded costs shall be preferred. For purposes of determining rate designs within customer classes, long-run marginal cost approaches are preferred although embedded cost approaches may be considered reasonable.

Nothing in this rule shall authorize or require the recovery by an electric utility of revenues in excess of, or less than, the amount of revenues otherwise determined to be lawful by the commission.

Guidelines for use in evaluating the acceptability of methods of class cost of service estimation include but are not limited to the following:

- a. All usage of customer, demand, and energy components of service shall be considered new usage.
- b. Customer classes shall be established on the primary basis of reasonably similar usage patterns within classes, even if this requires disaggregation or recombination of traditional customer classes.
- c. Generating capacity estimates or allocations among and within classes shall recognize that utility systems are designed to serve both peak and off-peak demand and shall attribute costs based upon both peak period demand and the contribution of off-peak period demand in determining generation mix. Generating capacity estimates and allocations among and within classes shall be based on load data for each class as described in the “class load data” paragraph of 199—Chapter 35.
- d. Transmission and distribution capacity estimates or allocations among and within classes shall be demand-related based upon system usage patterns and the load imposed by a class on the transmission or distribution capacity in question.
- e. Customer cost component estimates or allocations shall include only costs of the distribution system from and including transformers, meters, and associated customer service expenses.
- f. Methods of cost estimates or allocations among customer classes shall recognize the differences in voltage levels and other service characteristics and line losses among customer classes.
- g. Methods of class cost of service determination that are consistent with zero customer, demand, or energy component costs or major categories of these, such as generation, transmission, or distribution, shall be considered unacceptable methods.
- h. Long-run marginal cost methods of class cost of service determination shall clearly reflect changes in total costs to the utility with respect to changes in the outputs of customer, demand, or energy components of electric services.
- i. The use of an inverse elasticity approach to adjust long-run marginal cost-based rates to the revenue requirement shall be unacceptable. Other approaches will be considered on a case-by-case basis.

20.10(3) *Declining block rates.* The energy-related cost component of a rate, or the amount attributable to the energy-related cost component of a rate, charged by an electric utility for providing electric service during any period to any class of electric consumers, shall not decrease as kWh consumption by such class increases during the period except to the extent that the utility demonstrates that the energy costs of providing electric service to such class decrease as consumption increases during the period.

20.10(4) *Time-of-day rates.* The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis that reflects the cost of providing electric service to that class of electric consumers at different times of the day unless such rates are not cost-effective with respect to the class. These rates are cost-effective with respect to a class if the long-run benefits of the rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of the rates. Cost-based time-of-day rates shall be offered on an optional basis to electric consumers who do not otherwise qualify for the rates if consumers agree to pay the additional metering costs and other costs associated with the use of the rates.

20.10(5) *Seasonal rates.* The rates charged by an electric utility for providing electric service to each class of electric consumers may be on a seasonal basis that reflects the costs of providing service to the class of consumers at different seasons of the year to the extent that costs vary seasonally for the utility, if the commission determines that seasonal rates are appropriate in an individual case.

20.10(6) *Interruptible rates.* Each electric utility shall offer an interruptible rate that reflects the cost of providing interruptible service to the class of which the consumer is a member and the eligibility requirements for that interruptible service.

199—20.11(476) Customer notification of peaks in electric energy demand.

20.11(1) Pursuant to Iowa Code section 476.17, each investor-owned utility shall have a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur. The plan shall be made available to the commission upon request.

20.11(2) The plan shall include, at a minimum, the following:

- a.* A description and explanation of the condition(s) that will prompt a peak alert.
- b.* A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.
- c.* The text of the message or messages to be given in the general notice to customers. The message shall include the name of the utility providing the notice, an explanation that conditions exist that indicate a peak in electric demand is approaching, and an explanation of the significance of reductions in electricity use during a period of peak demand and the potential benefits of energy efficiency.

199—20.12(476) Periodic electric energy supply and cost review [476.6(12)]. Pursuant to Iowa Code section 476.6(12), 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 practices related to procurement of and contracting for fuel used in generating electricity. When it determines to conduct a contested case proceeding, the commission shall notify a rate-regulated utility that it will be required to file an electric fuel procurement plan. The notification to the utility shall include a detailed list of what the commission will be examining as part of the review. The utility shall file its plan no later than 105 days after notification unless otherwise directed by the commission. A utility's procurement plan shall be organized to include information as follows:

20.12(1) *Index.* The plan shall include an index of all documents and information required to be filed in the plan, and the identification of the commission files in which the documents incorporated by reference are located.

20.12(2) *Purchase contracts and arrangements.* A utility's procurement plan shall include detailed summaries of the following types of contracts and agreements executed since the last procurement review:

- a.* All contracts and fuel supply arrangements for obtaining fuel for use by any unit in generation;
- b.* All contracts and arrangements for transporting fuel from point of production to the site where placed in inventory, including any unit generating electricity for the utility;
- c.* All contracts and arrangements for purchasing or selling allowances;
- d.* Purchased power contracts or arrangements, including sale-of-capacity contracts, involving over 25 MW of capacity;
- e.* Pool interchange agreements;
- f.* Multiutility transmission line interchange agreements; and
- g.* Interchange agreements between investor-owned utilities, generation and transmission cooperatives, or both, not required to be filed above, which were entered into or in effect since the last filing, and all such contracts or arrangements that will be entered into or exercised by the utility during the prospective 12-month period.

All procurement plans filed by a utility shall include all of the types of contracts and arrangements listed in paragraphs 20.12(2) "a" and "b" that will be entered into or exercised by the utility during the prospective 12-month period. In addition, the utility shall file an updated list of contracts that are or will become subject to renegotiation, extension, or termination within five years. The utility shall also update any price adjustment affecting any of the filed contracts or arrangements.

20.12(3) *Other contract offers.* The procurement plan shall include a list and description of those types of contracts and arrangements listed in subrule 20.12(2) offered to the utility since the last filing into which the utility did not enter. In addition, the procurement plan shall include a list of those types of contracts and arrangements listed in subrule 20.12(2) that were offered to the utility for the prospective 12-month period and into which the utility did not enter.

20.12(4) *Studies or investigation reports.* The procurement plans shall include all studies or investigation reports that have been considered by the utility in deciding whether to enter into any of those types of contracts or arrangements listed in subrules 20.12(2) and 20.12(3) that will be exercised or entered into during the prospective 12-month period.

20.12(5) *Price hedge justification.* The procurement plan shall justify purchasing allowance futures contracts as a hedge against future price changes in the market rather than for speculation.

20.12(6) *Actual and projected costs.* The procurement plan shall include an accounting of the actual costs incurred in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with subrule 20.12(2) for the previous 12-month period.

The procurement plan also shall include an accounting of all costs projected to be incurred by the utility in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with subrule 20.12(2) in the prospective 12-month period.

If applicable, the reporting of transportation costs in the procurement plan shall include all known liabilities, including all unit train costs.

20.12(7) *Costs directly related to the purchase of fuel.* The utility shall provide a list and description of all other costs directly related to the purchase of fuels for use in generating electricity not required to be reported by subrule 20.12(6).

20.12(8) *Compliance plans.* Each utility shall file its emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

20.12(9) *Evidence submitted.* Each utility shall submit all factual evidence and written argument in support of its evaluation of the reasonableness and prudence of the utility's procurement practice decisions in the manner described in its procurement plan. The utility shall file data sufficient to forecast fuel consumption at each generating unit or power plant for the prospective 12-month period. The commission may require the submission of machine-readable data for selected computer codes or models.

20.12(10) *Additional information.* Each utility shall file additional information as ordered by the commission.

199—20.13(476) Flexible rates.

20.13(1) *Purpose.* This rule is intended to allow electric utility companies to offer, at their option, incentive or discount rates to their customers.

20.13(2) *General criteria.*

a. Electric 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.

20.13(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate 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 rate shall be equal to the energy costs and customer costs of serving the specific 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.

20.13(4) Reporting requirements. Each rate-regulated electric 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. For all discounts initiated in the last 12 months, section 1 of the report 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 end-use cost of alternate fuels or energy supplies available to the customer, if relevant; and
- (5) The energy and demand components by month of the amount of electricity sold to the customer in the preceding 12 months.

b. Section 2 of the report relates to overall program evaluation. Amount of electricity refers to both energy and demand components when the customer is billed for both elements. For all discounts currently being offered, section 2 of the report shall include:

- (1) The identity of each customer (by account number, if necessary);
- (2) The amount of electricity sold in the last 12 months to each customer at discounted rates, by month;
- (3) The amount of electricity sold 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; and
- (5) The dollar value of sales to each customer for each of the previous 12 months.

c. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, section 3 of the report shall include:

- (1) Customer identification (by account number, if necessary);
- (2) The amount of electricity sold in the last 12 months to each customer, by month;
- (3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month; and
- (4) The dollar value of sales to each customer for each of the past 12 months.

d. No monthly 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.

20.13(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 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—20.14(476) Customer contribution fund.

20.14(1) Applicability and purpose. This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. Pursuant to Iowa Code section 476.66, each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

20.14(2) Notification. Each utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice that will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall 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 required 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 of the fund;
- b. A description of the purpose of the fund; and
- c. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

20.14(3) Methods of contribution. The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledger. 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.

20.14(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, contain an accounting of the total revenues collected and all distributions of the fund, and describe all utility expenses directly related to the customer contribution fund.

199—20.15(476) Exterior flood lighting.

20.15(1) Newly installed lighting. All newly installed public utility-owned exterior flood lighting shall be solid-state lighting or lighting with equivalent or better energy efficiency.

20.15(2) In-service lighting replacement schedule. In-service lighting shall be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure for any other reason, such as vandalism or storm damage. A utility shall file with the commission as part of the utility's annual report required in 199—Chapter 23 a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency.

20.15(3) Efficacy standards. Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

- a. For fixtures, the mean lumens-per-watt lamp rating is greater than 100;
- b. The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or
- c. The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a DOE Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-19, as approved May 14, 2019, test procedures.

199—20.16(476) Ratemaking treatment of emission allowances.

20.16(1) Applicability and purpose. This rule applies to all rate-regulated utilities providing electric service in Iowa. Under the Act, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

20.16(2) Definitions. The following words and terms, when used in this rule, shall have the meaning indicated below:

“Auction allowances” are allowances acquired or sold through EPA's annual allowance auction.

“Boot” means something acquired or forfeited to equalize a trade.

“Direct sale allowances” are allowances purchased from the EPA in its annual direct sale.

“Fair market value” is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

“Historical cost” is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

“Original cost” is the historical cost of an asset to the person first devoting the asset to public service.

“Statutory allowances” are allowances allocated by the EPA at no cost to affected units under the Act either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

20.16(3) *Valuing allowances for ratemaking purposes.*

- a. Statutory allowances. Valued at zero cost to electric utility.
- b. Direct sale allowances. Valued at historical cost.
- c. Auction allowances. Valued at historical cost.
- d. Purchased allowances. Valued at historical cost.

20.16(4) *Valuing allowance inventory accounts.* Allowance inventory accounts shall be valued at the weighted average cost of all allowances eligible for use during that year.

20.16(5) *Valuing allowances acquired as part of a package.* Allowances acquired as part of a package with equipment, fuel, or electricity shall be valued at their fair market value at the time the allowances were acquired.

20.16(6) *Valuing allowances acquired through exchanges.*

a. *Exchanges without boot.* Electric utilities shall value allowances received in exchanges based on the recorded inventory value of the allowances relinquished.

b. *Exchanges with boot.* Electric utilities shall value allowances as the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly acquired allowances. In determining the historical cost of allowances received, a gain (or loss) shall be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share shall be based upon the ratio of the monetary consideration received (i.e., boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received). The historical cost of the allowances received shall be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

20.16(7) *Valuing allowances transferred among affiliates.*

a. Allowances transferred from a utility to a parent or unregulated subsidiary shall be transferred at the higher of historical cost or fair market value.

b. Allowances transferred from an unregulated subsidiary or parent to a utility shall be transferred at the lesser of original cost or fair market value.

c. Allowances transferred from a utility to an affiliated utility shall be transferred at fair market value.

20.16(8) *Expense recognition and recovery of allowance costs.*

a. *Expense recognition.* Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related emissions occur.

b. *Expense recovery.* The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 199—20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. *Allowance inventory shortage.* If a utility emits more emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the allowances shall be passed through the energy adjustment as specified in rule 199—20.9(476).

20.16(9) *Gains/losses from allowance transactions.* The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 199—20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

20.16(10) *Allowance futures or option contracts.*

a. Price hedging. Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. Speculation. Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

20.16(11) *Working capital reserve of allowances.* A working capital reserve of allowances shall be established in each utility's rate case proceeding based on the probability of forced outages, fuel quality variability, variability in load growth, nuclear exposure, the price and availability of allowances on the national market, and any other factors that the commission deems appropriate. The working capital reserve will earn at the utility's authorized rate of return.

20.16(12) *Allowances banked for future use.* Allowances banked for future use shall be considered plant held for future use in utility rate proceedings if a definitive plan and schedule for use of the allowances is deemed adequate by the commission.

20.16(13) *Prudence of allowance transactions.* The prudence of allowance transactions shall be determined by the commission in the periodic electric energy supply and cost review. The prudency review of allowance transactions and accompanying compliance plans shall be based on information available at the time the options or plans were developed. Costs recovered from ratepayers through the energy adjustment that are deemed imprudent by the commission shall be refunded with interest to ratepayers through the energy adjustment as specified in rule 199—20.9(476).

199—20.17(476,478) Service reliability requirements for electric utilities.

20.17(1) *Applicability.* This rule is applicable to investor-owned electric utilities operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.17(4) to the extent provided in Iowa Code chapter 478.

20.17(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the commission's jurisdiction. This rule establishes reporting requirements to provide consumers, the commission, and electric utilities with methodology for monitoring reliability and ensuring quality of electric service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

20.17(3) *General obligations.*

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and be capable of emergency repair work on a scale that its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. In appraising the reliability of the electric utility's transmission and distribution system, the commission will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

e. Each electric utility shall keep records of interruptions of service on its primary distribution system and make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

f. Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

20.17(4) Definitions. Terms and formulas when used in this rule are defined as follows:

“*Customer*” means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility that has a separately metered electrical service point for which a bill is provided. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

“*Customer average interruption duration index*” or “*CAIDI*” means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

“*Distribution system*” means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

“*Electrical service point*” means the point of connection between the electric utility’s equipment and the customer’s equipment.

“*Electric utility*” means investor-owned electric utilities owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the commission’s jurisdiction.

“*GIS*” means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

“*Interrupting device*” means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated. Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

“*Interruption*” means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer’s private property;
5. Interruptions due to hazardous conditions located on the affected customer’s private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security; or
8. Interruptions caused by the failure of a customer’s equipment; the operation of a customer’s equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

“Interruption duration” as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service, as long as the duration is not less than five minutes long.

“Interruption, momentary” means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

“Interruption, momentary event” means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

“Interruption, scheduled” means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

“Interruption, sustained” means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

“Loss of service” means the loss of electrical power, or a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of “interruption.”

“Major event” will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility’s operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area,
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area,
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

“Metropolitan area” means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

“Momentary average interruption frequency index” or *“MAIFI”* means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

“OMS” is a computerized outage management system.

“Operating area” means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

“Outage” means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

“Power quality” means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include but not be limited to disturbances such as high or low

voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

“Rural circuit” means a circuit not defined as an urban circuit.

“System average interruption duration index” or *“SAIDI”* means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

“System average interruption frequency index” or *“SAIFI”* means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

“Total number of customers served” means the total number of customers served on the last day of the reporting period.

“Urban circuit” means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

20.17(5) Recordkeeping requirements.

a. Each electric utility shall maintain a GIS and an OMS sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

- (1) State jurisdiction;
- (2) Operating area (if any);
- (3) Substation;
- (4) Circuit;
- (5) Number of interruptions in reporting period; and
- (6) Number of hours of interruptions in reporting period.
- b. Records on interruptions shall be sufficient to determine the following:
 - (1) Starting date and time the utility became aware of the interruption;
 - (2) Duration of the interruption;
 - (3) Date and time service was restored;
 - (4) Number of customers affected;
 - (5) Description of the cause of the interruption;
 - (6) Operating areas affected;
 - (7) Circuit number(s) of the distribution circuit(s) affected;
 - (8) Service account number or other unique identifier of each customer affected;
 - (9) Address of each affected customer location;
 - (10) Weather conditions at time of interruption;
 - (11) System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer);
 - (12) Whether the interruption was planned or unplanned.

c. Each electric utility shall maintain as much information as feasible on momentary interruptions.

d. Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.

(1) The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.

(2) The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.

(3) The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.

(4) The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.

(5) Utilities may augment the code sets listed above to enhance tracking.

e. An electric utility shall retain for seven years the records required by paragraphs 20.17(5) “a” through “d.”

f. Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.

20.17(6) *Notification of a major event.* Notification of a major event as defined in subrule 20.17(4) shall comply with the requirements of rule 199—20.18(476,478).

20.17(7) *Annual reliability and service quality report.* Each electric utility shall submit to the commission on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. *Description of service area.* Urban and rural Iowa service territory customer count; Iowa operating area customer count, if applicable; and major communities served within each operating area.

b. *System reliability performance.*

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and be updated as needed in subsequent reports.

c. *Reporting on customer outages.*

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.

2. All Iowa customers, including major events.

d. *Major event summary.* For each major event that occurred in the reporting period, the following information shall be provided:

- (1) A description of the area(s) impacted by each major event;
- (2) The total number of customers interrupted by each major event;
- (3) The total number of customer-minutes interrupted by each major event; and
- (4) Updated damage cost estimates to the electric utility's facilities.

e. *Information on transmission and distribution facilities.*

(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.

(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

f. *Plans and status report.* A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

g. *Capital expenditure information.* Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Each electric utility shall report on an annual basis the total of:

1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its board of directors or other appropriate authority. If any amounts approved by the board of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.

2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.

(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in subparagraph 20.17(7) "g" (1).

h. *Maintenance.* Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal, so that by the fifth Annual Reliability Report submittal, five years of data shall be available in each subsequent annual report.

(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.

(2) Tree trimming.

1. The budget and expenditures described in subparagraph 20.17(7) "h" (1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.

2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the commission in a request for waiver.

3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in numbered paragraph 20.17(7) "h" (2) "1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the commission's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

i. The annual reliability report shall include the number of poles inspected, the number rejected, and the number replaced.

20.17(8) *Inquiries about electric service reliability.* A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

199—20.18(476,478) Notification of outages.

20.18(1) *Notification.* The notification requirements in this rule are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the commission when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. Loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

c. A major event as defined in subrule 20.17(4); or

d. Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.18(1) "a" and "b."

20.18(2) *Information required.*

a. Notification shall be provided regarding outages that meet the requirements of subrule 20.18(1) by notifying the commission duty officer by email at dutyofficer@iuc.iowa.gov or, in appropriate circumstances, by telephone at 515.745.2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

- (1) The general nature or cause of the outage;
- (2) The area affected;
- (3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;
- (4) The time when service is estimated to be restored; and
- (5) 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 outage.

The notice should be supplemented as more complete or accurate information is available.

b. The utility shall provide to the commission updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances unless service is restored within one hour of the time initially estimated.

c. The utility shall notify the commission once service is fully restored to all customers after an outage meeting the requirements of subrule 20.18(1).

199—20.19(476) Transmission cost adjustment (TCA).

20.19(1) *Transmission cost adjustment.* Pursuant to Iowa Code section 476.6(8) "b," public utilities may automatically adjust rates and charges to recover transmission-related costs incurred by or charged to the public utility consistent with a tariff or agreement that is subject to the jurisdiction of the FERC, provided that a schedule showing the automatic adjustment of rates and charges is first filed with and approved by the commission. Transmission cost adjustments shall be computed and tracked separately for each customer classification or grouping previously approved by the commission and shall use the same unit of measure as the utility's tariffed rates. Changes in the customer classification and grouping

on file are not automatic and require prior approval by the commission. If any eligible cost is recovered outside of the TCA, the cost shall not be recovered through the TCA until the cost is removed from its current recovery mechanism. If any eligible cost is recovered outside of the TCA, the cost shall not be recovered through the TCA until the cost is removed from base rates during a utility's rate case. The TCA factor shall be included as a separate line item on the customer's bill.

20.19(2) *TCA annual factor.* An annual TCA factor update shall be filed as a tariff (TF) docket at least 30 days prior to the beginning of the utility's TCA year. The TCA update shall include information describing which eligible TCA costs are being recovered through the TCA and, if not recovered through the TCA, where eligible costs are being recovered. The annual TCA factors for each customer classification or grouping shall be based upon forecasted transmission costs allocated to Iowa retail customers, forecasted Iowa sales or demand, and allocation factors approved by the commission. The forecasted allocation factors shall be based on a three-year average of the actual allocation factors for each of the three previous calendar years. For customers billed by kWh, the factors shall be developed on a kWh basis. For customers billed by kW, the factors shall be developed on a kW basis. In addition, the following is required to be included with this filing:

a. A listing of all transmission costs that are incurred by or charged to the public utility and are consistent with a tariff or agreement that is subject to the jurisdiction of the FERC, detailing where each transmission cost is currently being recovered (e.g., base rates, TCA).

b. A time series chart of each transmission cost eligible for inclusion in the TCA for the previous three calendar years.

20.19(3) *Annual reconciliation.* Within four months after the effective date of annual TCA factors, a utility shall file an annual reconciliation based upon actual costs and revenues attributed to Iowa customers for the prior calendar year. The annual reconciliation shall be filed in the same TF docket identified for the annual filing required in subrule 20.19(2). The reconciliation shall include updated allocators for each customer classification or grouping based on actual load data from the prior calendar year. The actual costs for the prior calendar year shall be allocated to each customer class based upon the updated allocation factors. The utility shall compare the actual transmission costs allocated to each customer class with the actual revenue billed through the TCA by customer class net of the prior year's reconciliation dollar amount for each customer class. Any resulting overcollection or undercollection for each class shall be divided by the forecasted sales or demand for each customer class for the remainder of the TCA period. The resulting adjustments shall be added to the effective TCA factors that were approved in the TCA annual factor filing under subrule 20.19(2). The adjusted TCA factor for customers billed by kWh shall be developed on a kWh basis, and for customers billed on a kW basis, the adjusted TCA factor shall be developed on a kW basis.

20.19(4) *Other adjustments to the TCA factor.* A utility may propose other adjustments to the TCA factor throughout the 12-month TCA period to assist with accurate recovery of forecasted costs and revenues, subject to commission approval. Any midyear adjustments shall be filed in the same TF docket as the annual filing. If a utility proposes an adjustment to the TCA factor, other than the reconciliation required in subrule 20.19(3), the utility shall provide an explanation for the proposed adjustment and provide information to support the proposed adjustment. For any customer billed by kWh, the proposed adjustment shall be developed on a kWh basis. For any customer billed on a kW basis, the proposed adjustment shall be developed on a kW basis.

20.19(5) *Quarterly informational filings.* By the end of the month following the end of each calendar quarter, the utility shall file a report containing, at minimum, the current cumulative overcollection or undercollection balance, support for the overcollection or undercollection calculation, the total transmission cost for the current calendar year by category, and the supporting invoices and documentation for the most recent calendar quarter. The reports shall be filed in the same TF docket as the annual TCA filing.

20.19(6) *Semiannual transmission reports.* Each year at the beginning, and midpoint of a utility's TCA year, each utility shall file a report detailing the utility's transmission-related activities. These reports shall detail the utility's recent efforts to mitigate transmission costs and influence policy to the benefit of the utility and its ratepayers.

20.19(7) *Midcontinent Independent System Operator, Inc. (MISO) refunds.* Any utility utilizing a TCA mechanism that receives transmission-related refunds from MISO shall file a refund plan for commission approval, detailing how the utility will distribute the refund to customers. The refund plan must be filed once the amount and timing of the refund is known to the utility. The refund plan shall include an applicable interest rate for refund amounts held more than 30 days, the method of distributing the refund to customers, and the timing of distributing the refund to customers.

199—20.20(476) Electric vehicle charging service.

20.20(1) A commercial or public electric vehicle charging station is not a public utility under Iowa Code section 476.1 if the charging station receives all electric power from the electric utility in whose service area the charging station is located. If an electric vehicle charging station obtains electric power from a source other than the electric utility, the determination of whether the commercial or public electric vehicle charging station is a public utility shall be resolved by the commission.

20.20(2) A person, partnership, business association, or corporation, foreign or domestic, furnishing electricity to a commercial or public electric vehicle charging station shall comply with Iowa Code section 476.25 and, if applicable, with the terms and conditions of the public utility's tariffs or service rules.

20.20(3) A rate-regulated public utility shall not, through its filed tariff, prohibit electric vehicle charging or restrict the method of sale of electric vehicle charging at a commercial or public electric vehicle charging station.

20.20(4) Electric utilities and entities providing commercial or public electric vehicle charging service shall comply with all applicable statutes and regulations governing the provision of an electric vehicle charging service, including but not limited to all taxing requirements, and shall, if necessary, file all appropriate tariffs.

These rules are intended to implement Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, and 478.18.

ARC 8577C

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Notice of Intended Action

Proposing rulemaking related to retired and senior volunteer program and providing an opportunity for public comment

The Iowa Commission on Volunteer Service hereby proposes to rescind Chapter 7, "Retired and Senior Volunteer Program (RSVP)," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15H.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15H.2.

Purpose and Summary

This chapter outlines the Retired and Senior Volunteer Program (RSVP) grant application and administration. At its November 14, 2024, meeting, the Commission voted to rescind the chapter and put the information in a policy manual.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024. A public hearing was held on the following date(s):

- January 17, 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 of Health and Human Services for a waiver of the discretionary provisions, if any, pursuant to 441—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 March 11, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 11, 2025 10:30 to 11 a.m.	Microsoft Teams Meeting ID: 268 409 030 879 Passcode: GC7mn6SU
March 11, 2025 2:30 to 3 p.m.	Microsoft Teams Meeting ID: 296 518 166 153 Passcode: C8Ux6zU3

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 and reserve **817—Chapter 7.**

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 February is 6.50%.

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 February 11, 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 1.60%
One year to 397 days	Minimum 1.80%
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:

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%
March 1, 2025 — March 31, 2025	6.75%

ARC 8932C

ALCOHOLIC BEVERAGES DIVISION[185]

Adopted and Filed

Rulemaking related to organization and operation, agency procedure for rulemaking, declaratory orders, contested cases, public records and fair information practices, and waivers from rules

The Alcoholic Beverages Division hereby rescinds Chapter 1, "Organization and Operation," Chapter 2, "Agency Procedure for Rule Making," Chapter 3, "Declaratory Orders," Chapter 10, "Contested Cases," Chapter 18, "Public Records and Fair Information Practices," and Chapter 19, "Waivers from Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this rulemaking is to implement the state government realignment provisions of 2023 Iowa Acts, Senate File 514. This rulemaking eliminates rules on agency procedure that are redundant, unnecessary, and outdated. The Department of Revenue's new agency procedure rules will make applicable practices across subject matters as uniform as possible and reduce confusion with current existing rules.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8345C**. Two public hearings were held on the following date(s):

- December 4, 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 on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

- ITEM 1. Rescind and reserve **185—Chapter 1.**
- ITEM 2. Rescind and reserve **185—Chapter 2.**
- ITEM 3. Rescind and reserve **185—Chapter 3.**
- ITEM 4. Rescind and reserve **185—Chapter 10.**
- ITEM 5. Rescind and reserve **185—Chapter 18.**
- ITEM 6. Rescind and reserve **185—Chapter 19.**

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8867C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rulemaking related to rural Iowa primary care loan repayment program

The College Student Aid Commission hereby rescinds Chapter 24, "Rural Iowa Primary Care Loan Repayment Program," 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 256.178 and 256.221.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.221.

Purpose and Summary

This rulemaking rescinds and adopts a new Chapter 24 for the Rural Iowa Primary Care Loan Repayment Program. The existing chapter is rescinded and a new chapter promulgated in lieu thereof under Executive Order 10 to ensure that outdated and obsolete provisions are eliminated.

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 8402C**. 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.

One change from the Notice has been made in paragraph 24.3(3)"a" to add eligible residency program contacts to the list of individuals to which the notice of the availability of surplus funds will be sent. This was inadvertently omitted from the Notice.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 283—Chapter 24 and adopt the following new chapter in lieu thereof:

CHAPTER 24

RURAL IOWA PRIMARY CARE LOAN REPAYMENT PROGRAM

283—24.1(256) Definitions.

“Eligible applicant” means an individual who meets the criteria of Iowa Code sections 256.221(2) and 256.221(3), agrees to sign a program agreement, and agrees to complete the obligation. The eligible applicant completes an application on or before the date established by the commission and does not meet a condition in 283—subrule 10.3(1).

1. The program agreement specifies the obligation and other details pertaining to the program.
2. The obligation may be postponed or satisfied pursuant to Iowa Code section 256.221(11).

Progression toward completion of the obligation is verified annually.

“Eligible loan” means the same as defined in Iowa Code section 256.221(13). Only the outstanding portion of a federal consolidation loan that was used to repay an eligible loan qualifies as an eligible loan. An eligible applicant who signs a program agreement and then refinances an eligible loan by obtaining a private education loan may continue to receive loan repayment awards.

“Eligible university” means the same as defined in Iowa Code section 256.221(13).

“Part-time practice” means at least an average of 28 hours per week serving clients in a service commitment area.

“Service commitment area” means the same as defined in Iowa Code section 256.221(13). Each eligible applicant participating in the program will contract with the service commitment area to ensure the service commitment area provides the nonrefundable contribution. Payment of the nonrefundable contribution to the trust fund can be made by but is not limited to the following organizations: community agencies, medical groups, municipalities, community foundations, local government entities,

or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

283—24.2(256) Awarding of funds.

24.2(1) *Selection criteria.* The commission will annually determine and communicate the number of recommendations that can be funded at each eligible university. Each eligible university will recommend the corresponding number of eligible applicants to the commission, prioritizing eligible applicants who were Iowa residents upon enrolling at the eligible university. If an eligible university cannot fill all of its recommendations, another eligible university will be allowed to fill those recommendations. If the eligible universities cannot fill all of the recommendations available, the commission may enter into additional agreements under the surplus funds provisions in rule 283—24.3(256).

24.2(2) *Extent of award and maximum award.* Eligible applicants may receive up to \$200,000 upon completion of the obligation pursuant to Iowa Code section 256.221(5). The loan repayment award will not exceed the outstanding balance of the eligible applicant's eligible loans.

24.2(3) *Awarding process.*

a. The commission will provide notice of the eligibility criteria and the number of recommendations to be filled to the eligible universities.

b. The eligible universities will send recommended eligible applicants to the commission.

c. The commission will work with eligible applicants to sign program agreements.

d. Prior to employment, the eligible applicant will notify the commission of the service commitment area in which the eligible applicant will be employed and the commission will verify the eligibility of the service commitment area.

e. The commission will track eligible applicants selected to receive awards through completion of their obligation.

f. The commission will pay the loan repayment award directly to the holder of the eligible applicant's eligible loan only after verifying with the employer that a portion of the obligation has been completed and the nonrefundable contribution has been deposited in the trust fund.

283—24.3(256) Surplus funds. In the event that fewer than the total number of recommendations in subrule 24.2(1) are filled by students at the eligible universities, the commission may enter into additional agreements.

24.3(1) *Surplus-funds-eligible applicant.* A surplus-funds-eligible applicant will meet the following criteria:

a. Graduate with a doctor of medicine or osteopathy degree from an eligible university and complete a residency program.

b. Receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time or part-time practice of medicine and surgery or osteopathic medicine and surgery in a specialty defined in Iowa Code section 256.221(3) "d" for a period of five consecutive years in a service commitment area. The applicant will notify the commission of the applicant's service commitment area prior to beginning practice in the service commitment area.

c. Agree to sign a program agreement and to complete the obligation.

d. Complete applications on or before the date established by the commission and have none of the restrictions listed in 283—subrule 10.3(1).

24.3(2) *Priority for awards.* In the event that the total amount of surplus funds is insufficient to award all eligible applicants, awards will be prioritized as follows:

a. Surplus funds-eligible applicants employed in a state other than Iowa and individuals in their final year of residency or fellowship, by date of application.

b. All other surplus funds-eligible applicants by date of application.

24.3(3) *Awarding process.*

a. The commission will provide notice of the availability of surplus funds, the eligibility criteria, and the application process to the eligible universities and eligible residency program contacts.

- b.* The eligible universities will notify alumni, and residency program contacts will notify residents of the availability of surplus funds.
- c.* The commission will work with surplus funds-eligible applicants to sign program agreements.
- d.* Prior to employment, the surplus funds-eligible applicant will notify the commission of the service commitment area in which the eligible applicant will be employed and the commission will verify the eligibility of the service commitment area.
- e.* The commission will track surplus funds-eligible applicants selected to receive awards through completion of their obligation.
- f.* The commission will pay the loan repayment award specified in subrule 24.2(2) directly to the holder of the eligible applicant's eligible loan only after employer verification that a portion of the obligation has been completed and the nonrefundable contribution has been deposited in the trust fund.

283—24.4(256) Failure to fulfill obligation. An eligible applicant who fails to fulfill the obligation pursuant to Iowa Code section 256.221(11) will forfeit all future loan repayment awards under the program and will be subject to repayment of any loan repayment awards paid under this chapter toward the eligible applicant's eligible loans as specified in the program agreement.

283—24.5(256) Waivers. An eligible applicant will request a waiver in writing from the commission to change employment to a different service commitment area, to work part-time in accordance with Iowa Code section 256.221(10), or to postpone employment in accordance with Iowa Code section 256.221(11).

These rules are intended to implement Iowa Code chapter 256.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8868C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rulemaking related to rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program

The College Student Aid Commission hereby rescinds Chapter 25, "Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant Loan Repayment Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.178.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 261.114 (repealed July 1, 2023).

Purpose and Summary

This rulemaking rescinds Chapter 25 for the Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant Loan Repayment Program. Iowa Code section 261.114 was repealed on July 1, 2023, so there is no further benefit of the chapter. The existing chapter is rescinded under Executive Order 10 (January 10, 2023) to ensure that outdated and obsolete provisions are eliminated.

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 8399C**. 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 Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **283—Chapter 25**.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8869C

COLLEGE STUDENT AID COMMISSION[283]**Adopted and Filed****Rulemaking related to rural veterinarian loan repayment program**

The College Student Aid Commission hereby rescinds Chapter 27, "Rural Iowa Veterinarian Loan Repayment Program," and adopts a new Chapter 27, "Rural Veterinarian Loan Repayment Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 256.178 and 256.226.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.226.

Purpose and Summary

This rulemaking rescinds and adopts a new Chapter 27 for the Rural Iowa Veterinarian Loan Repayment Program. The existing chapter is rescinded and a new chapter promulgated in lieu thereof under Executive Order 10 to ensure that outdated and obsolete provisions are eliminated.

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 8403C**. 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 Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 283—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27**RURAL VETERINARIAN LOAN REPAYMENT PROGRAM****283—27.1(256) Definitions.**

“Eligible applicant” means an individual who meets the criteria of Iowa Code sections 256.226(3) and 256.226(4), agrees to sign a program agreement, agrees to begin employment under the obligation within one year of signing a program agreement, and agrees to complete the obligation. The eligible applicant completes applications on or before the date established by the commission and does not meet a condition in 283—subrule 10.3(1).

1. The program agreement specifies the obligation and other details pertaining to the program.
2. The obligation is considered fulfilled or may be postponed pursuant to Iowa Code section 256.226(9). Progression toward completion of the obligation is verified annually.

“Eligible loan” means the same as defined in Iowa Code section 256.226(1). Only the outstanding portion of a federal consolidation loan that was used to repay an eligible loan qualifies as an eligible loan.

“Food supply veterinary medicine” means the same as “practice of food supply veterinary medicine” as defined in Iowa Code section 256.226(1).

“Rural service commitment area” means the same as defined in Iowa Code section 256.226(1). An eligible applicant who signs a program agreement to serve in a service commitment area will contract with the service commitment area to ensure the service commitment area provides a nonrefundable contribution equivalent to 12.5 percent of the eligible applicant’s eligible loan balance, at the time the program agreement is signed, for deposit in the rural veterinarian trust fund. Payment of the nonrefundable contribution to the trust fund can be made by but is not limited to the following organizations: community agencies, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

“Veterinary shortage area” means the same as defined in Iowa Code section 256.226(1).

283—27.2(256) Awarding of funds.

27.2(1) *Selection criteria.* All eligible applicants will be considered for an award.

27.2(2) *Extent of award and maximum award.* Eligible applicants may receive up to \$60,000 upon completion of the obligation. The loan repayment award will not exceed the outstanding balance of the eligible applicant’s eligible loans.

27.2(3) *Priority for awards.* New awards will be made in the order of the following priority categories if funding is insufficient to award all eligible applicants. An eligible applicant selected for an award under a priority category will continue to meet the provisions of that category to maintain eligibility.

a. Eligible applicants who will be employed in a private practice providing food supply veterinary medicine in a veterinary shortage area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A, by date of application, followed by eligible applicants who will be employed in a private practice providing food supply veterinary medicine in a veterinary shortage area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A, by date of application.

b. Eligible applicants who will be employed in a private practice providing food supply veterinary medicine in a service commitment area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A, by date of application, followed by eligible applicants who will be employed in a private practice providing food supply veterinary medicine in a service commitment area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A, by date of application.

c. Eligible applicants who will practice as a veterinarian in a service commitment area and have graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A, by date of application, followed by eligible applicants who will practice as veterinarians in a service commitment area and have not graduated from an Iowa high school or completed private instruction under Iowa Code chapter 299A, by date of application.

27.2(4) *Awarding process.* The commission will:

- a.* Provide notice of the eligibility criteria and the application process annually.

- b. Designate eligible applicants for awards and notify all applicants of their eligibility.
- c. Track eligible applicants selected to receive awards through completion of their obligation. Completion of the obligation will be verified by the eligible applicant's employer. An obligation is satisfied pursuant to Iowa Code section 256.226(9).
- d. Pay the loan repayment award directly to the holder of the eligible applicant's eligible loan.

283—27.3(256) Failure to fulfill obligation. An eligible applicant who fails to fulfill the obligation pursuant to Iowa Code section 256.226(9) will be subject to repayment of any loan repayment awards paid under this chapter toward the eligible applicant's eligible loans as specified in the program agreement.

These rules are intended to implement Iowa Code chapter 256.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8870C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rulemaking related to mental health professional loan repayment program

The College Student Aid Commission hereby rescinds Chapter 31, "Mental Health Professional Loan Repayment Program," 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 256.178 and 256.225.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.225.

Purpose and Summary

This rulemaking rescinds and adopts a new Chapter 31 for the Mental Health Professional Loan Repayment Program. The existing chapter is rescinded and a new chapter promulgated in lieu thereof under Executive Order 10 to ensure that outdated and obsolete provisions are eliminated.

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 8405C**. 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 Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 283—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31

MENTAL HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM

283—31.1(256) Definitions.

“Eligible applicant” means an individual who is a mental health professional or agrees to become a mental health professional, agrees to sign a program agreement, and agrees to complete the obligation. The eligible applicant completes applications on or before the date established by the commission and does not meet a condition in 283—subrule 10.3(1).

1. The program agreement specifies the obligation and other details pertaining to the program.
2. The obligation is fulfilled by assessing and diagnosing mental health needs and problems and providing mental health counseling services to clients, individually or in groups, in eligible practice areas on a full-time basis for five consecutive years or on a part-time basis for seven consecutive years. Progression toward completion of the obligation is verified annually.

“Eligible institution” means the same as defined in Iowa Code section 256.225(1).

“Eligible loan” means the same as defined in Iowa Code section 256.225(1). Only the outstanding portion of a federal consolidation loan that was used to repay an eligible loan qualifies as an eligible loan. An eligible applicant who signs a program agreement and then refinances an eligible loan by obtaining a private education loan may continue to receive loan repayment awards.

“Eligible practice area” means the same as defined in Iowa Code section 256.225(1). Mental health professionals who serve clients who reside in eligible practice areas, including rural locations outside of city limits but within the federal mental health shortage area, on at least a part-time basis are eligible. After an eligible applicant signs an agreement to practice in an eligible practice area, subsequent changes to eligible practice areas will not impact that applicant's continued eligibility for the program.

“Mental health professional” means the same as defined in Iowa Code section 256.225(1). The required clinical experience is completed after receipt of a master's degree in a mental health field.

“Part-time” means an average of at least 28 hours but fewer than 40 hours per week.

283—31.2(256) Awarding of funds.

31.2(1) *Selection criteria.* All eligible applicants will be considered for an award.

31.2(2) *Extent of award and maximum award.* Eligible applicants may receive up to \$40,000 upon completion of the obligation. The loan repayment award will not exceed the outstanding balance of the eligible applicant's eligible loans. An eligible applicant selected for an award under a priority category will continue to meet the provisions of that category to maintain eligibility.

31.2(3) *Priority for awards.* New awards will be made in the order of the following priority categories if funding is insufficient to award all eligible applicants.

a. Eligible applicants who are Iowa residents or who are members of the Iowa national guard if requested by the adjutant general. Members of the Iowa national guard will have satisfactorily completed required guard training and will maintain satisfactory performance of guard duty. If all eligible applicants cannot be funded, awards will be made first to eligible applicants who are in their final year of the degree program that leads to their qualification as a mental health professional, by application date; then to eligible applicants completing the two-year post-master's degree clinical experience, by application date; and finally to practicing mental health professionals, with priority to those meeting the definition of mental health professional in the most recent fiscal year.

b. Eligible applicants who are not Iowa residents and are not members of the Iowa national guard requested by the adjutant general. If all eligible applicants cannot be funded, awards will be made first to eligible applicants who are in their final year of the degree program that leads to their qualification as a mental health professional, by application date; then to eligible applicants completing the two-year post-master's degree clinical experience, by application date; and finally to practicing mental health professionals, with priority to those meeting the definition of mental health professional in the most recent fiscal year.

31.2(4) *Awarding process.* The commission will:

- a.* Provide notice of the eligibility criteria and application process annually.
- b.* Designate eligible applicants for awards and notify applicants of their eligibility.
- c.* Track eligible applicants selected to receive awards through completion of their obligation. An obligation is satisfied if it aligns with Iowa Code section 256.225(4).
- d.* Send the award to the holder of the selected eligible applicant's eligible loans upon verifying completion of the obligation with the eligible applicant's employer.

283—31.3(256) Failure to fulfill obligation. An eligible applicant who fails to fulfill the obligation pursuant to Iowa Code section 256.225(4) will be subject to repayment of any loan repayment awards paid under this chapter toward the eligible applicant's eligible loans as specified in the program agreement.

These rules are intended to implement Iowa Code chapter 256.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8871C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rulemaking related to chiropractic graduate student forgivable loan program

The College Student Aid Commission hereby rescinds Chapter 32, "Chiropractic Graduate Student Forgivable Loan Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.178.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.203.

Purpose and Summary

This rulemaking rescinds Chapter 32 for the Chiropractic Graduate Student Forgivable Loan Program. The program last received an appropriation in FY 2002 and is not operational, with the exception of several accounts that are in default or in collections. The provisions in the chapter related to the servicing of the loan are duplicated in the promissory notes that each of these borrowers signed (the borrowers remain obligated to the debt under the promissory note), rendering the chapter obsolete. The existing chapter is rescinded under Executive Order 10 to ensure that outdated and obsolete provisions are eliminated.

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 8398C**. 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 Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **283—Chapter 32**.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8872C**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed****Rulemaking related to Iowa teacher shortage loan forgiveness program**

The College Student Aid Commission hereby rescinds Chapter 35, “Iowa Teacher Shortage Loan Forgiveness Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.178.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.220.

Purpose and Summary

This rulemaking rescinds Chapter 35 for the Iowa Teacher Shortage Loan Forgiveness Program. 2017 Iowa Acts, House File 642, section 2, prohibited the making of new awards under the Iowa Teacher Shortage Loan Forgiveness Program but allowed a renewal applicant to continue to be considered for awards until the applicant’s eligibility is exhausted. The last renewal applicants received awards in FY 2020, and the program has not received an appropriation since FY 2019. The legislative directive has been administratively achieved, the program has been phased out, and there is no further benefit of the chapter. The existing chapter is rescinded under Executive Order 10 to ensure that outdated and obsolete provisions are eliminated.

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 8400C**. 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 Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **283—Chapter 35**.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8873C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rulemaking related to Governor Terry E. Branstad Iowa state fair scholarship program

The College Student Aid Commission hereby rescinds Chapter 36, "Governor Terry E. Branstad Iowa State Fair Scholarship Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.178.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.202.

Purpose and Summary

This rulemaking rescinds Chapter 36 for the Governor Terry E. Branstad Iowa State Fair Scholarship Program. The remaining funding under the program was depleted during the 2023-2024 academic year, and the scholarship will not be available thereafter. The existing chapter is rescinded under Executive Order 10 to ensure that outdated and obsolete provisions are eliminated.

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 8401C**. 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 Commission on January 10, 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **283—Chapter 36**.

[Filed 1/10/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8906C

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT
DEPARTMENT[605]**

Adopted and Filed

Rulemaking related to school safety

The Homeland Security and Emergency Management Department hereby adopts new Chapter 13, "School Safety," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in 2024 Iowa Acts, House File 2652.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2652.

Purpose and Summary

The purpose of this rulemaking is to implement 2024 Iowa Acts, House File 2652, regarding school safety and to provide a process to maintain a list for schools to purchase approved unholstered weapons detection systems.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8579C**.

The Department received one public comment. The commenter sought additional privacy protections and assured compliance of regulations by vendors. The Department determined student privacy is already addressed through the Family Educational Rights and Privacy Act (FERPA). Additionally, vendors on the approved list will be required to attest to all requirements of law and rule on a quarterly basis. The Department reserves the right to terminate a vendor's approved status should there be instances of noncompliance discovered.

A change from the Notice has been made to the catchwords of rule 605—13.3(90GA,HF2652). The catchwords were changed to clarify and indicate the system security requirements are encompassing of schools and vendors in alignment with 2024 Iowa Acts, House File 2652. Also, certain references to 2024 Iowa Acts, House File 2652, have been removed since the amendments in the House File have been codified in the 2025 Iowa Code.

Adoption of Rulemaking

This rulemaking was adopted by the Director on January 29, 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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 605—Chapter 13:

CHAPTER 13
SCHOOL SAFETY

DIVISION I
APPROVED WEAPON DETECTION SECURITY EQUIPMENT

PREAMBLE

This division implements a program to develop a list of allowable school safety equipment. The equipment in this division is specific to unholstered weapons detection capabilities within a school building or on school property.

605—13.1(90GA, HF2652) Program implementation.

13.1(1) The department will produce and post a list of vendors and products on the department's website meeting the criteria in rule 605—13.2(90GA, HF2652).

13.1(2) The initial list will be established through an application form posted on the department's website at homelandsecurity.iowa.gov.

13.1(3) Vendors wishing to be added to the list at any time may submit the application found on the department's website for consideration and inclusion on the department's list.

605—13.2(90GA, HF2652) Eligibility criteria. Eligibility for vendors and products to appear on the list will be in accordance with appropriate state and federal laws and regulations, including but not limited to the following:

13.2(1) Security requirements.

a. Iowa Code section 423F.3(6) "a"(5).

b. Vendors identified as prohibited companies by a federal acquisition regulation, or other memorandum, are excluded from use. Excluded vendors include but are not limited to the following:

(1) Federal Acquisition Regulation (FAR) 52.204-24 as amended through September 2024—representation regarding certain telecommunications and video surveillance services or equipment.

(2) FAR 52.204-25 as amended through September 2024—prohibition on contracting for certain telecommunications and video surveillance services or equipment.

(3) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

c. Self-certification of provisions within Iowa Code section 423F.3(6) "a"(5)(a) and rule 605—13.2(90GA, HF2652), subject to review and confirmation by the department.

13.2(2) Eligibility criteria in addition to those in Iowa Code section 423F.3(6) "a"(5)(i) through 423F.3(6) "a"(5)(ix).

a. The vendor is experienced in deploying and maintaining similar types of systems.

b. The system is capable of integrating with existing security cameras (monitoring and alerting) systems.

c. The system has the ability to process input in real time.

d. The computer/mobile device user interface is intuitive and easy to use.

e. The vendor provides full implementation and user support services.

605—13.3(90GA, HF2652) System security requirements.

13.3(1) *Transmission.*

a. Ownership of video associated with the instance of an unholstered weapon is the sole property of the school district that purchased and installed the software.

b. A request for duplication or transmission of an incident by the prosecuting attorney or appropriate law enforcement will be complied with.

c. The decision to transmit to outside sources will be made by the school district with the concurrence of the prosecuting attorney or appropriate law enforcement authorization.

13.3(2) *Encryption.* Data collected by the system, including video, is encrypted in transit and at rest. Transport Layer Security (TLS) 1.2 or higher will be used for encryption in transit.

13.3(3) *Authentication.* Multifactor authentication (MFA) is implemented for administrative access to the system.

13.3(4) *Privacy.* Personally identifiable information, including student images, is not streamed live or stored with the vendor with the exception of rule 605—13.4(90GA, HF2652).

13.3(5) *Storage.* The system does not process, store, transmit, or allow access to, data from outside the continental United States (OCONUS).

605—13.4(90GA, HF2652) Data retention for storage of video and data. All video and data associated with an instance of a suspected unholstered weapon shall be maintained for 2,555 days and meet all agency retention requirements.

605—13.5 to 13.20 Reserved.

DIVISION II
GRANT PROGRAM

PREAMBLE

This division implements a grant program to provide grants to applicable school districts. The grant program is to be used by school districts for purchasing infrastructure and equipment related to employee permits to carry weapons, facilitate training associated with employee permits to carry weapons, and provide stipends to employees who participate in the training associated with employee permits to carry weapons.

605—13.21(90GA, HF2652) Definitions.

“Equipment” means tangible personal property having a useful life of more than one year for the fulfillment of 2024 Iowa Acts, House File 2586, section 2.

“Infrastructure” means the same as defined in Iowa Code section 423F.3.

“Training” means the same as described in Iowa Code section 724.6.

605—13.22(90GA, HF2652) Eligibility criteria. Eligible applicants include public school districts, private schools, and institutions of higher education as defined in Iowa Code chapter 256.

605—13.23(90GA, HF2652) Application process. When funding is available, the application for grant funds will be posted on the department’s website at homelandsecurity.iowa.gov.

These rules are intended to implement 2024 Iowa Acts, House File 2652.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8897C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

**Rulemaking related to appeals and hearings, public records and
fair information practices, and notices**

The Department of Health and Human Services hereby rescinds Chapter 7, “Appeals and Hearings,” Chapter 9, “Public Records and Fair Information Practices,” and Chapter 16, “Notices,” Iowa Administrative Code, and adopts new Chapters 7, 9, and 16 with the same titles.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

These repromulgated rules are intended to provide further clarity and strengthen the application of these rules in order to comply with the Iowa Code.

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 8426C**. 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 Department on January 24, 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, pursuant to 441—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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
APPEALS AND HEARINGS

441—7.1(17A) Definitions.

“*Adverse benefit determination*” means any adverse action taken pursuant to a program administered by the department or on the department’s behalf, excluding determinations related to requests for waivers of administrative rules.

“*Appellant*” means a person, including an authorized representative acting on the person’s behalf, seeking to appeal some action pursuant to this chapter.

“*Assistance program*” means a program administered by the department or on the department’s behalf through which qualifying individuals receive benefits or services.

“Authorized representative” means a person lawfully designated by an individual to act on the individual’s behalf or who has legal authority to act on behalf of the individual.

“Contested case” refers to an evidentiary hearing mandated by state or federal constitutional or statutory authority whereupon a presiding officer makes a determination pertaining to the relative rights and obligations of parties to an appeal under this chapter.

“DIAL” means the department of inspections, appeals, and licensing.

“Enrollee” means any applicant to or recipient of benefits or services provided by a program administered by the department or on the department’s behalf.

“Good cause,” for purposes of this rule, has the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

“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.

“Intentional program violation” means the same as established in 7 CFR §273.16 as amended to August 1, 2024.

“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.

“Managed care organization” or *“MCO”* has the meaning assigned to it in rule 441—73.1(249A) and includes prepaid ambulatory health plans.

“Medicaid” means Iowa’s medical assistance program administered under Iowa Code chapter 249A.

“Party-in-interest” refers to the party, including enrollees, whose rights or obligations are the subject of a contested case hearing under this chapter. Parties-in-interest may or may not be the appellant.

“Presiding officer” means an administrative law judge from DIAL or the director of the department or the members of a multimember board or commission.

“Self-represented” means representing oneself without an attorney.

441—7.2(17A) Governing law and regulations. In the absence of an applicable rule in this chapter, the DIAL rules found at 481—Chapter 10 govern department appeals. Notwithstanding the foregoing and the rules contained in this chapter, to the extent that federal or state law (including regulations and rules) related to a specific program is more specific than or contradicts these rules or the applicable DIAL rules, the program-specific federal or state law shall control.

DIVISION I
GENERAL APPEALS PROCESS

441—7.3(17A) When a contested case hearing will be granted.

7.3(1) Requirements. A person will be granted a contested case hearing if the party-in-interest fulfills all the following requirements:

- a. The party-in-interest is entitled to a contested case hearing;
- b. The party-in-interest has an ongoing, specific and personal interest in the outcome of the contested case hearing; and
- c. The party-in-interest meets all of the other requirements contained in these rules.

7.3(2) Refusal to process an application. Unless otherwise provided by law, when an appellant seeks a contested case hearing after the department refuses to process an application for benefits or services, a hearing will be granted.

7.3(3) When a hearing is not granted. A hearing will not be granted when one of the following issues is appealed:

- a. Patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.
- b. Children have been removed from or placed in a specific foster care setting or preadoptive placement.
- c. A final decision from a previous hearing with a presiding officer has been implemented.
- d. A denial of a request for a waiver of administrative rule.

7.3(4) *Contractual rights not subject to contested case hearing.* Unless otherwise provided by law, when an appellant seeks a contested case hearing of an issue predicated upon or governed by the terms of a contract between appellant and another party, including the department, a contested case hearing will not be provided.

7.3(5) *Change in law.* A contested case hearing will not be granted when the sole issue raised is a federal or state law requiring an automatic change adversely affecting some or all beneficiaries.

7.3(6) *Competitive procurement bid appeals.* Competitive procurement bid appeals shall be adjudicated pursuant to Division II of this chapter.

441—7.4(17A) Initiating an appeal.

7.4(1) *Exhaustion of remedies.* An appellant will only be granted a contested case hearing if the appellant has exhausted all other appeal remedies available to the party-in-interest. An appellant should refer to program-specific provisions for the appropriate procedures applicable to specific programs.

7.4(2) *Medicaid managed care enrollees exhaustion of remedies.*

a. A Medicaid managed care enrollee will be granted a contested case hearing pursuant to 42 CFR 438.402(c)(1) as amended to November 13, 2020.

b. If a Medicaid enrollee's managed care organization fails to provide a decision in the time and manner pursuant to 42 CFR 438.408 as amended to November 13, 2020, the enrollee will be deemed to have exhausted the managed care organization's appeals process and may initiate a contested case hearing.

7.4(3) *Time to appeal.* For a contested case hearing to be granted, the following appeal timelines must be met:

a. *Supplemental Nutrition Assistance Program (SNAP), Medicaid eligibility, healthy and well kids in Iowa (hawki), fee-for-service Medicaid coverage, family planning program, and autism support program.* On or before the ninetieth day following the date of notice of an adverse benefit determination.

b. *Managed care organization medical services coverage.* On or before the 120th day following the date of exhaustion, actual or deemed, of the managed care organization appeal process.

c. *Federal tax or debtor offsets.* On or before the 15th day following the date of notice of the action.

d. *Women, Infants and Children (WIC) program.* On or before the ninetieth day following the date of notice of an adverse benefit determination for a participant. On or before the tenth day following the date of notice of adverse action for a vendor pursuant to 7 CFR 246.18(a)(1) as amended to August 1, 2024. On or before the tenth business day following the receipt of notification to a local agency of an adverse decision pursuant to 7 CFR 246.18(a)(3) as amended to August 1, 2024.

e. Reserved.

f. *Dependent adult abuse.* Within six months of the date of notice of the action as provided in Iowa Code section 235B.10.

g. *Child abuse.* For an appeal regarding child abuse, the person alleged responsible for the abuse must appeal on or before the ninetieth day following the date of notice of the action as provided in Iowa Code section 235A.19. A subject of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the appeal on or before the tenth day following the date of notice of the right to intervene.

h. *Assistance program overpayments.* For an appeal pertaining to overpayments, the party-in-interest's right to appeal the existence, computation and amount of the overissuance or overpayment begins when the department sends the first notice informing the party-in-interest of the overissuance or overpayment. The appeal timelines for overpayments follow the same timelines as other actions within the same program.

i. *All other appeals.* For all other appeals, and unless federal or state law provides otherwise elsewhere, the appellant must appeal on or before the thirtieth day following the date of notice of the action being appealed. If such an appeal is made more than 30 days, but less than 90 days, of the date of notice, the director or director's designee may, at the director's or designee's sole discretion, allow a contested case hearing if the delay was for good cause, substantiated by the appellant.

7.4(4) *Written and oral notification.* The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status pursuant to 441—Chapter 16.

a. Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance.

- (1) The right to request a hearing.
- (2) The procedure for requesting a hearing.
- (3) The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.

b. Written notification will be given on the application form and all notices of decision.

441—7.5(17A) How to request an appeal.

7.5(1) *Ways to request a hearing.* An appellant may request a contested case hearing:

- a.* Via the department's website,
- b.* By telephone, except as specified in subrule 7.5(4),
- c.* By mail,
- d.* In person, except as specified in subrule 7.5(4), or
- e.* Through other commonly available electronic means (such as email or facsimile).

7.5(2) *Hearing request.* The request for a contested case hearing must be sufficiently detailed so that the department can reasonably understand the action being appealed. The department may request additional information to determine the scope of the appeal. The department may deny if there is not sufficient information to determine the action being appealed.

7.5(3) *Filing date.* The date of filing for appeal requests sent by regular mail shall be the date postmarked on the envelope sent to the department or, when a postmarked envelope is not available, on the date the appeal is stamped received by the agency. The date of filing for appeal requests sent electronically will be determined by the date on which the electronic submission was completed.

7.5(4) *Appeals that must be filed in writing.* Appeal requests pertaining to foster care, adoption, state supplementary assistance, the autism support program, record check evaluation, child care, registered or nonregistered homes, child abuse, dependent adult abuse or child support must be made in writing.

7.5(5) *Department's responsibilities.*

a. Unless the appeal is voluntarily withdrawn, the department will:

- (1) Within one working day of receipt of an appeal request, forward the request for appeal and envelope (if any) and a copy of the notice to the appeals section.
- (2) Within ten days of the receipt of the appeal, forward a summary and supporting documentation of the worker's or agent's factual basis for the proposed action to the appeals section.

b. Copies of all materials sent to the appeals section or the presiding officer to be considered in reaching a decision on the appeal are to be provided to the appellant at the same time as the materials are sent to the appeals section or the presiding officer.

441—7.6(17A) Prehearing procedures.

7.6(1) *Acknowledgment of appeal.* When the appeals section receives a request for appeal, it will send acknowledgment of the receipt of the appeal to the parties to the appeal. For an appeal regarding child abuse, all subjects other than the person alleged responsible (party-in-interest) will be notified of the opportunity to file a motion to intervene as provided in Iowa Code section 235A.19.

7.6(2) *Acceptance or denial of appeal.* The appeals section will determine with reasonable promptness whether the party-in-interest is entitled to a contested case hearing. If a request is accepted, the appeals section will certify the appeal to DIAL and designate the issues on appeal. If a request for a contested case hearing is denied, the appeals section will provide written notice of and the reasons for the denial. On or before the thirtieth day following the denial, the individual requesting the appeal may provide additional information related to the individual's asserted right to a contested case hearing and request reconsideration of the denial.

7.6(3) *Designation of issues for appeal.*

a. Initial designation. After determining that the party-in-interest is entitled to a contested case hearing, the appeals section will designate the issues to be decided at the contested case hearing. The issues designated will be certified to DIAL and be identified in the notice of hearing issued pursuant to subrule 7.6(5).

b. Additional designation of issues. If any party believes additional issues should be designated, the party shall identify the additional issues within the following timelines. The presiding officer shall determine whether all issues have properly been preserved.

(1) Child abuse and dependent adult abuse registry appeals. For a child abuse and dependent adult abuse registry appeal, the party shall identify additional issues at least 30 days before the date of hearing.

(2) Appeals set on or before the tenth day following the notice of hearing. If the hearing is on or before the tenth day following the date of the notice of hearing, the party shall identify any additional issues at the hearing.

(3) All other appeals. For all other appeals not identified in this paragraph, the party shall identify the additional issues on or before the tenth day following the date of the notice of hearing.

7.6(4) Group hearings regarding medical assistance. The appeals section may respond to a series of related, individual requests for hearings regarding medical assistance by consolidating individual hearings into a single group hearing where the sole issue is based on state or federal law or policy. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

7.6(5) Notice of hearing.

a. Issuance of hearing notice. Except as provided in paragraph 7.6(5) “b,” DIAL shall send notice to the parties of the appeal at least 15 calendar days in advance of the hearing setting forth the date, time, method, and place of the hearing; that evidence may be presented orally or documented to establish pertinent facts; that the parties may bring and question witnesses and refute testimony; and that the parties may be represented by others, including an attorney, at the parties’ own cost and as subject to state and federal law. Notice shall be mailed by first-class mail, postage prepaid, and addressed to the appellant at the appellant’s last-known address or accessible via client portal, if appellant has opted in to portal communications.

b. Intentional program violation hearing notices. DIAL shall send notices of hearing regarding alleged intentional program violations at least 30 days in advance of the hearing date. The notices under this paragraph shall otherwise comply with the requirements of paragraph 7.6(5) “a.”

7.6(6) Appellant’s right to department’s case file. Prior to and during the contested case hearing, the department will provide the appellant or the appellant’s authorized representative the opportunity to examine the content of the appellant’s case file, if any, and all documents and records to be used by the department at the hearing.

7.6(7) Informal conference. The purpose of an informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action or position, and to provide an opportunity for the appellant to examine the contents of the case record.

a. When requested by the appellant, an informal conference with a representative of the department or one of its contracted partners, including a managed care organization, shall be held as soon as possible after the appeal has been filed. An appellant’s representative shall be allowed to attend and participate in the informal conference unless precluded by federal rule or state statute.

b. An informal conference need not be requested for the appellant to examine the contents of the case record.

441—7.7(17A) Timelines for contested case hearings.

7.7(1) Medical assistance. In cases involving the determination of medical assistance, the contested case hearing shall be held within a time frame such that the final administrative action is timely pursuant to 42 CFR 431.244(f) as amended to December 8, 2021.

7.7(2) Community spouse resource allowance. In cases involving the determination of the community spouse resource allowance, the hearing shall be held within 30 days of the date of the appeal request.

441—7.8(17A) Contested case hearing procedures.

7.8(1) Method. Contested case hearings may be conducted via telephone or videoconference. Upon request of a party to the appeal or order of the presiding officer, the contested case hearing shall be conducted in person.

7.8(2) Evidence.

a. The parties to a contested case hearing may:

- (1) Bring witnesses,
- (2) Submit competent evidence to establish all pertinent facts and circumstances,
- (3) Present arguments without undue interference,
- (4) Question or refute any testimony or evidence, including through cross-examination, and
- (5) Respond to evidence and arguments on all issues.

b. Evidence shall be received or excluded as provided in Iowa Code section 17A.14.

7.8(3) Right to counsel. Parties to an appeal shall be permitted to be represented by counsel at the parties' own expense.

7.8(4) Self-represented appellant. The presiding officer shall, at the officer's discretion, provide reasonable assistance to a self-represented appellant. The presiding officer must, however, ensure that such assistance does not impact the independence and fairness of the contested case hearing process.

7.8(5) Closed to public. Contested case hearings are closed to the public, and unless otherwise provided by state or federal law, only the parties, their representatives, permissible intervenors, and witnesses may be present for a contested case hearing in the absence of mutual agreement of the parties.

7.8(6) Administration of appeals. Except as otherwise provided in this chapter or other applicable federal or state law, discretion in the conduct and administration of appeals is vested in the contested case hearing presiding officer.

7.8(7) Contested cases with no factual dispute. If the parties in a contested case agree that there is no dispute of material fact, the parties may present all admissible evidence either by stipulation, or as otherwise agreed, in lieu of an evidentiary hearing. If an agreement is reached, the parties shall jointly submit a schedule for submission of the record, briefs and oral arguments to the presiding officer for approval. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

441—7.9(17A) Miscellaneous rules governing contested case hearings.

7.9(1) Ex parte communication. Ex parte communications between the presiding officer and person or party in connection with any issue of fact or law in the contested case proceeding is prohibited except as permitted by Iowa Code section 17A.17. All of the provisions of Iowa Code section 17A.17 apply.

7.9(2) Default. If a party fails to appear at a scheduled hearing or prehearing conference without good cause as determined by the presiding officer, the party's appeal may be denied and dismissed or may be heard and ruled upon, consistent with Iowa Code section 17A.12(3). Defaulting parties may file a timely motion to vacate, which shall be granted if the presiding officer determines good cause has been shown.

7.9(3) Withdrawal. An appellant may submit a withdrawal of a fair hearing request at any time prior to hearing through any of the methods identified in subrule 7.5(1), except for programs listed in subrule 7.5(4). For programs listed in subrule 7.5(4), a written request may be submitted via the department's website, by mail, in person, or through other commonly available electronic means (such as email or facsimile). Unless otherwise provided, a withdrawal shall be with prejudice.

7.9(4) Medical assessment. For Medicaid enrollees engaged in an appeal involving medical issues, the department may request, at the department's own expense, that the appellant submit to an appropriate medical assessment. The presiding officer shall order such assessment upon sufficient showing of necessity.

7.9(5) Standard of review. In a child abuse appeal, the criteria and level of deference by which the presiding officer shall render a decision is based on a preponderance of evidence.

7.9(6) *Interpreters.* The department will provide translation and interpretation services to an appellant, if requested. In all cases when an appellant is illiterate or semiliterate, the presiding officer shall advise the appellant of the appellant's rights to the satisfaction of the appellant's understanding.

7.9(7) *Persons living with disabilities.* Persons living with disabilities shall be provided assistance through the use of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act (as amended to December 31, 2023) and Section 504 of the Rehabilitation Act (as amended, effective October 1, 2016).

441—7.10(17A) Proposed decision.

7.10(1) *Contents.* The presiding officer shall issue a written proposed decision to all parties clearly identifying the issues on appeal, holding, findings of fact, conclusions of law, and order. The findings of fact shall cite and be based exclusively on the record as defined by Iowa Code section 17A.12(6). The conclusions of law shall be limited to the contested issues of fact, policy or law and shall identify the specific provisions of law that support the ultimate conclusion.

7.10(2) *Access to record.* After receiving the proposed decision, an appellant shall be given reasonable access to the record at a convenient place and time.

441—7.11(17A) Director's review.

7.11(1) *Time.* Parties, including the department, may appeal the proposed decision to the director.

a. A request for director's review shall be in writing and postmarked or received within 14 calendar days of the date on which the proposed decision was issued, except as provided for under paragraph 7.11(1) "*b.*" A request for director's review may be accompanied by a brief written summary of the arguments in favor of director's review.

b. A managed care organization appealing a proposed decision reversing an adverse benefit determination shall request director's review within 72 hours from the date it received notice of the proposed decision.

7.11(2) *Grant or denial of review.* The department has full discretion to grant or deny a request for review. In addition, the director may initiate review of a proposed decision on the director's own motion at any time on or before the thirtieth day following the issuance of the proposed decision.

When the department grants a request for director's review, the department will notify the parties and enclose a copy of the request. All other parties shall have 14 calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

7.11(3) *Cross-appeal.* When a party requests director's review in accordance with subrule 7.11(1), the remaining parties shall have 14 calendar days from that date to submit cross-requests for director's review. The party originally seeking director's review shall have 14 calendar days from the date of the cross-request for director's review to submit further written arguments or objections for consideration upon review.

7.11(4) *Limited record.* Director's review shall be limited to the issues and record before the contested case hearing presiding officer.

7.11(5) *Oral arguments.* Upon specific request, the director may, at the director's discretion, permit parties to present oral arguments with the parties' requests for director's review.

441—7.12(17A) Final decisions.

7.12(1) *No appeal or denial of director review.* If there is no timely appeal from or review of the proposed decision, the presiding officer's proposed decision becomes the final decision of the agency.

7.12(2) *Timelines.*

a. The department or director will issue a final decision within the timelines prescribed by federal or state law. For all appeals for which there is no federal or state timeliness standard, the department or director will issue a final decision on or before the ninetieth day from the date the department receives an appeal request.

b. Except as otherwise provided by state or federal law, the time frames for a final decision provided under this rule may be tolled when:

- (1) The appellant requests a delay;

- (2) The appellant fails to take a required action; or
- (3) There is an administrative or other emergency beyond the department's control.
- c. DIAL shall document in the record the reasons for any delay and the requesting party.

7.12(3) *Written notice of final decision.* The parties to the appeal shall be provided written notice of the department's final decision. The department will also notify the appellant of the appellant's right to seek judicial review, where applicable.

441—7.13(17A) Expedited review.

7.13(1) *Expedited review criteria.* An appellant to a medical assistance appeal may, at any time, file with the department a request for expedited review of the appeal. Expedited review shall be granted pursuant to 42 CFR 438.410 (as amended to August 1, 2024) for a managed care organization appeal or 42 CFR 431.224 (as amended to August 1, 2024) for a non-managed care organization appeal.

7.13(2) *Managed care expedited proceedings.*

a. If the appellant is granted an expedited review, all subsequent proceedings shall also be expedited without an additional request if the appeal request indicates that the managed care organization appeal was expedited and provides the basis for expedited relief.

b. When review is expedited pursuant to paragraph 7.13(2) "a," the presiding officer shall issue a proposed decision as expeditiously as the enrollee's health condition requires, but no later than three working days after the department receives from the managed care organization the case file and information for any appeal of a denial of a service that, as indicated by the managed care organization:

- (1) Meets the criteria for expedited resolution but was not resolved within the time frame for expedited resolution; or
- (2) Was resolved within the time frame for expedited resolution but reached a decision wholly or partially adverse to the enrollee.

7.13(3) *Medicaid eligibility or preadmission and annual resident review expedited proceedings.* For expedited appeals related to Medicaid eligibility or preadmission and annual resident review requirements, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than seven working days after the department receives a request for an expedited fair hearing.

7.13(4) *Medicaid-covered benefits or services expedited proceedings.* For expedited appeals related to Medicaid-covered benefits or services, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than provided in paragraph 7.13(2) "b."

7.13(5) *Final decision for expedited proceeding.* The department will issue its final decision in accordance with this rule, except as provided by subrule 7.12(2).

7.13(6) *Notification if expedited relief is granted or denied.* The department will notify the appellant as expeditiously as possible whether the request for expedited relief is granted or denied. Such notice will be provided orally or through electronic means to the extent consistent with federal and state law. If oral notice is provided, the department will follow up with written notice, which may be through electronic means to the extent consistent with federal and state law.

441—7.14(17A) Effect.

7.14(1) If the contested case hearing presiding officer's proposed decision is favorable to an enrollee in a Medicaid appeal, the department will promptly make corrective payments retroactive to the date an incorrect action was taken. If the presiding officer reverses a decision of a managed care organization to deny, limit, or delay services that were not furnished while the appeal was pending, the managed care organization must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires, but no later than 72 hours from the date the managed care organization receives notice reversing the determination.

7.14(2) Unless there is contravening federal or state law, all final decisions shall be put into effect within seven days of the issuance of the final decision.

441—7.15(17A) Calculating time. In computing any time period specified in this chapter, the period:

- 1. Excludes the day of the event that triggers the period;

2. Includes every day of the time period (including Saturdays, Sundays, and holidays on which the department is closed); and
3. Includes the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

441—7.16(17A) Authorized representatives.

7.16(1) Regulations. The provisions of this rule only apply to the extent the standards expressed in this rule are not in conflict with other state or federal law.

7.16(2) Designation of authority. Legally recognized delegations of authority, such as guardianships, applicable designations of power of attorney, or similar designations, shall be sufficient for a delegate to serve as authorized representative under this chapter. A person who is not designated a legally recognized delegation of authority but who otherwise seeks to act as an authorized representative for an individual in an appeal under this chapter shall provide a written, signed designation of authority to the department with the request for appeal. The designation must provide the scope of the representation, applicable waivers for the release of confidential information, and any temporal or other limitations on the scope of representation. An authorized representative of a party-in-interest only represents the party-in-interest and has no independent right to appeal by virtue of the authorized representative's representation.

7.16(3) Written designation. For a person other than an attorney seeking to act as an authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative's written designation of authority pursuant to subrule 7.16(2) shall be on an authorized representative form prescribed by the department. This form is required for all managed care appeals, including those handled through the expedited appeals process. Failure to provide the form or legal documentation may result in denial of the appeal request.

7.16(4) Appearance by attorney. Legal counsel appearing on behalf of any person in a proceeding under this chapter shall enter an appropriate written appearance.

441—7.17(17A) Continuation and reinstatement of benefits.

7.17(1) Programs for which no federal or state law applies. For all assistance programs for which there is no contravening federal or state law, benefits or services shall not be suspended, reduced, restricted, or discontinued, nor shall a license, registration, certification, approval, or accreditation be revoked or other adverse action taken pending a final decision when:

- a. An appeal is filed before the effective date of the intended action; or
- b. The appellant requests a hearing within ten days of receipt of a notice to suspend, reduce, restrict, or discontinue benefits or services. The date on which the notice is received is considered to be five days after the date on the notice unless the appellant shows the notice was not received within the five-day period.

7.17(2) Sole issue is state or federal law or policy. Benefits or services continued pursuant to subrule 7.17(1) may be suspended, reduced, restricted, or discontinued if the presiding officer determines at the contested case hearing that the sole issue is one of state or federal law or policy and the department has notified the enrollee in writing that services are to be suspended, reduced, restricted, or discontinued pending the proposed decision.

7.17(3) Recoup cost of services or benefits. The department or managed care organization may recoup the cost of benefits or services provided pursuant to this chapter if the adverse action appealed from is affirmed, consistent with state and federal law.

441—7.18(17A) Emergency adjudicative proceedings.

7.18(1) Necessary emergency action. When and to the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with state and federal law, a contested case hearing presiding officer may issue a written order 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 department by emergency adjudicative order. In determining the necessity of such an action, the presiding officer shall consider factors, including but not limited to the following:

- a.* Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;
- b.* Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;
- c.* Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of 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 is necessary to avoid the immediate danger.

7.18(2) *Issuance of order.* An emergency adjudicative order shall contain, or shall be expeditiously followed by, a written analysis, including findings of fact, conclusions of law, and policy reasons to justify the order. The agency shall provide written notice that best ensures prompt, reliable delivery. Such order shall be immediately delivered to the persons required to comply with the order.

7.18(3) *Completion of proceedings.* Upon issuance of an order under this rule, the department will proceed as quickly as reasonably practicable to complete any proceedings that would be required if the matter did not involve an immediate danger. An order issued under this rule shall include notice of the date on which proceedings under this chapter are to be completed. After issuance of an order under this rule, continuance of further proceedings under this chapter shall only be granted in compelling circumstances upon application in writing. Before issuing an emergency adjudicative order, the presiding officer shall consider factors, including but not limited to the following:

- a.* Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;
- b.* Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;
- c.* Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of 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 is necessary to avoid the immediate danger.

441—7.19(17A) Supplemental Nutrition Assistance Program (SNAP) administrative disqualification hearings. An intentional program violation is determined through a SNAP administrative disqualification hearing, a court conviction, or when an individual signs and returns a form prescribed by the department, which may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both in accordance with the procedures outlined in this rule and in 7 CFR 273.16(e) and (f) as amended to December 8, 2021.

7.19(1) When a case is referred for an administrative disqualification hearing, the department will mail written notification to the individual that the individual can waive the right to an administrative disqualification hearing by signing and returning Waiver of Right to an Administrative Disqualification Hearing.

7.19(2) By signing Waiver of Right to an Administrative Disqualification Hearing, the individual:

- a.* Waives the right to an administrative disqualification hearing;
- b.* Consents to the SNAP disqualification period designated Waiver of Right to an Administrative Disqualification Hearing, and a reduction of benefits for the period of disqualification; and
- c.* Acknowledges that remaining household members, if any, may be held responsible for repayment of the resulting claim.

7.19(3) An administrative disqualification hearing shall be scheduled if the individual does not sign and mail or fax Waiver of Right to an Administrative Disqualification Hearing to the department within ten days of receipt of the written notification stating the individual can waive the right to an administrative disqualification hearing. The date on which the written notification is received is

considered to be five days after the date on the notification unless the individual shows the notification was not received within the five-day period.

7.19(4) An individual who waives the right to an administrative disqualification hearing will be subject to the same penalties as an individual found to have committed an intentional program violation in an administrative disqualification hearing.

441—7.20 to 7.40 Reserved.

DIVISION II
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

441—7.41(17A) Scope, bidder and applicability. The rules in Division II apply to appeals based on the department's competitive procurement bid process. A bidder is an entity that submits a proposal in response to a solicitation issued through the department's competitive procurement process.

441—7.42(17A) Requests for timely filing of an appeal. Any bidder that receives either a notice of disqualification or a notice of award, and has first exhausted the reconsideration process, is considered an aggrieved party and may file a written appeal with the department.

7.42(1) An aggrieved party in a competitive procurement must seek reconsideration of a disqualification or a notice of award prior to filing any appeal. The request for reconsideration must be received by the department within five calendar days of the date of either a disqualification notice or notice of award, exclusive of Saturdays, Sundays and legal state holidays. The department will expeditiously address the request for reconsideration and issue a decision on the reconsideration. If the party seeking reconsideration continues to be an aggrieved party following receipt of the decision on reconsideration, the aggrieved party may file an appeal within five calendar days of the date of the department's decision on reconsideration, exclusive of Saturdays, Sundays and legal state holidays.

7.42(2) The written appeal will state the grounds upon which the appellant challenges the department's decision.

7.42(3) The day after the department's decision on reconsideration is issued is the first day of the period in which the appeal may be filed. Appeals may be sent by mail, email, fax or in-person delivery.

When an appeal is submitted through an electronic delivery method, such as email or fax, the appeal is filed on the date it is submitted. The electronic delivery method will record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method or the appeal was filed via in-person delivery, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals will be documented by the office where the appeal is received.

When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

441—7.43(17A) Bidder appeals. The bidder appeal will be a contested case proceeding and shall be conducted in accordance with the provisions of Division II. Division I of this chapter does not apply to competitive procurement bid appeals unless otherwise noted.

7.43(1) Hearing time frame. The presiding officer shall hold a hearing on the bidder appeal within 60 days of the date the notice of appeal was received by the department.

7.43(2) Registration. Upon receipt of the notice of appeal, the department will register the appeal.

7.43(3) Acknowledgment. Upon receipt of the notice of appeal, the department will send a written acknowledgment of receipt of the appeal to the appellant, the appellant's representative, or both.

7.43(4) Granting a hearing. The department will determine whether an appellant may be granted a hearing and the issues to be discussed at the hearing in accordance with the applicable rules, statutes or federal regulations or request for proposal.

a. An appeal of an appellant who is granted a hearing shall be certified to DIAL for the hearing to be conducted. The department will indicate at the time of certification the issues to be discussed at the hearing.

b. An appeal of an appellant who is denied a hearing shall not be closed until a letter is sent to the appellant and the appellant's representative advising of the denial of the hearing and the basis upon which that denial is made. Any appellant who disagrees with a denial may present additional information relative to the reason for denial and request reconsideration by the department over the denial.

7.43(5) *Hearing scheduled.* For those records certified for hearing, DIAL shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in DIAL rules in 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

7.43(6) *Method of hearing.* DIAL shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in rule 441—7.8(17A).

7.43(7) *Reschedule requests.* Requests made by the appellant or the department to set another date, time, method or place of hearing shall be made to DIAL except as otherwise noted. The granting of the requests will be at the discretion of DIAL. All requests concerning the scheduling of a hearing shall be made to DIAL directly.

7.43(8) *Notification.* For those appeals certified for hearing, DIAL shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

a. The notice shall comply with Iowa Code section 17A.12(2), and include a statement that opportunity shall be afforded to all parties to respond and present evidence on all issues involved and to be represented by counsel at their own expense.

b. A copy of this notice shall be made available to the department employee who took the action and to any other parties to the appeal.

441—7.44(17A) Procedures for bidder appeal.

7.44(1) Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

7.44(2) Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

7.44(3) Amendments to notice of appeal. The aggrieved bidder may amend the grounds upon which the bidder challenges the department's award no later than 15 days prior to the date set for the hearing.

7.44(4) If the hearing is not conducted in person, the parties must deliver all exhibits to the office of the presiding officer at least three days prior to the time the hearing is conducted.

7.44(5) The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to the appellant and representative by mail.

7.44(6) The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6).

441—7.45(17A) Stay of agency action for bidder appeal.

7.45(1) *When a stay may be requested.*

a. Any party appealing the issuance of a notice of disqualification or notice of award may petition for stay of the decision pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

b. Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the

director within five days of receipt of the final decision and order and shall state the reasons justifying a stay.

7.45(2) *When a stay is granted.* In determining whether to grant a stay, the director will consider the factors listed in Iowa Code section 17A.19(5)“c.”

7.45(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the department or any other party.

441—7.46(17A) Request for review of the proposed decision. A request for review of the proposed decision shall follow the provisions outlined in rule 441—7.11(17A).

441—7.47(17A) Other procedural considerations.

7.47(1) *Consolidation—severance.* The provisions regarding consolidation and severance in rule 481—10.10(10A,17A) apply.

7.47(2) *Rights of an appellant during a hearing.* All rights afforded an appellant in rule 441—7.8(17A) shall apply.

441—7.48(17A) Appeal record.

7.48(1) The appeal record shall consist of all items specified in Iowa Code section 17A.16.

7.48(2) The party that requests a transcription of the proceedings shall bear the cost.

441—7.49(17A) Pleadings. The provisions regarding pleadings in rule 481—10.11(10A,17A) apply.

441—7.50(17A) Ex parte communications. The rules regarding ex parte communications specified in subrule 7.9(1) and Iowa Code section 17A.17 apply.

441—7.51(17A) Right of judicial review. The rules regarding right of judicial review specified in subrule 7.12(3) and Iowa Code section 17A.19 apply.

These rules are intended to implement Iowa Code chapter 17A.

ITEM 2. Rescind 441—Chapter 9 and adopt the following new chapter in lieu thereof:

CHAPTER 9 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

441—9.1(17A,22) Statement of policy, purpose and scope of chapter.

9.1(1) The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The department is committed to the policies set forth in Iowa Code chapter 22; department staff will cooperate with members of the public in implementing the provisions of that chapter.

These rules also implement the federal Health Insurance Portability and Accountability Act (HIPAA) regulations at 45 CFR Parts 160 and 164 as amended to June 25, 2024. These rules set forth the standards the department must meet to protect the privacy of protected health information. The department is a hybrid entity for purposes of HIPAA. The rules on protected health information apply only to those parts of the department that are considered part of the covered entity.

9.1(2) This chapter does not:

a. Require the agency to index or retrieve records that contain information about individuals by that person’s name or other personal identifier.

b. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

c. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency that are governed by the rules of another agency.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.

e. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

f. Require the agency to create, compare or procure a record solely for the purpose of making it available.

441—9.2(17A,22) Definitions. As used in this chapter:

“Business associate” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Client” means a person who has applied for or received services or assistance from the department.

“Confidential record” in these rules means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Covered entity” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Custodian” means the director of the department or the director’s designee.

“Data aggregation” is the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“Designated record set” is the same as defined in 45 CFR §164.501 as amended to March 26, 2013, including:

1. The medical records about subjects that are maintained for facilities;
2. The enrollment, payment, and eligibility record systems maintained for Medicaid; or
3. The enrollment, payment, and eligibility record systems maintained for the hawki program that are used, in whole or in part, by the hawki program to make decisions about subjects.

For purposes of this definition, the term “record” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“Disclosure” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Facility” or *“facilities”* means, with respect to HIPAA rules about health information, one or more of these department institutions: Cherokee Mental Health Institute, Independence Mental Health Institute, and Woodward Resource Center.

“Health care” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Health care clearinghouse” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Health care operations” for covered entities in the department has the same definition as that stated in 45 CFR §164.501 as amended to March 26, 2013.

“Health care provider” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Health information” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Health oversight agency” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“Health plan” means an individual or group plan that provides or pays the cost of medical care, as defined at 45 CFR §160.103 as amended to June 25, 2024. In the department, “health plan” means Medicaid or hawki.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“Law enforcement official” means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or

2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

“Legal representative” is a person recognized by law as standing in the place or representing the interests of another for one or more purposes.

“Mental health information” means oral, written, or otherwise recorded information that indicates the identity of a person receiving professional services (as defined in Iowa Code section 228.1(8)) and that relates to the diagnosis, course, or treatment of the person’s mental or emotional condition.

“Open record” means a record other than a confidential record.

“Payment,” with respect to protected health information, has the same definition as that stated in 45 CFR §164.501 as amended to March 26, 2013. In the department, “payment” applies to subjects for whom health care coverage is provided under the Medicaid program or the hawki program.

“Personally identifiable information” means information about or pertaining to the subject of a record that identifies the subject and that is contained in a record system.

“Personal representative” means someone designated by another as standing in the other’s place or representing the other’s interests for one or more purposes. The term “personal representative” includes, but is not limited to, a legal representative. For disclosure of protected health information, the definition of “personal representative” is more restrictive, as described at rule 441—9.15(17A,22).

“Protected health information” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Psychotherapy notes” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“Public health authority” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“Record” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

“Record system” means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of a subject, number, symbol, or other unique identifier assigned to a subject.

“Subject” means the person who is the subject of the record, whether living or deceased.

“Substance abuse information” means information that indicates the identity, diagnosis, prognosis, or treatment of any person in an alcohol or drug abuse program.

“Transaction” means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Treatment” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“Use,” with respect to protected health information, means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

“Workforce,” with respect to protected health information, means the same as defined in 45 CFR §160.103 as amended to June 25, 2024.

441—9.3(17A,22) Requests for access to records.

9.3(1) *Location of record.* A request for access to a record should be directed to the Records Officer, 321 East 12th Street, Des Moines, Iowa 50319. If a request for access to a record is misdirected, department personnel will promptly forward the request to the department’s records officer.

9.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

9.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information.

9.3(4) *Response to requests.* Access to an open record will be provided upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as

feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4).

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 441—9.4(17A,22) and other applicable provisions of law.

9.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

9.3(6) *Copying.* A reasonable number of copies of an open record may be made in the department office. If photocopy equipment is not available in the department office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

9.3(7) *Fees.* The department may charge fees as permitted by Iowa Code chapter 22. The department will publish a fee schedule for open records on its website. The department may charge a fee for the cost of preparing an explanation or summary of health information. The department and the subject requesting the information shall agree to the amount of any fee imposed before the department prepares the explanation or summary.

441—9.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 441—9.3(17A,22).

9.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

9.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

9.4(3) *Notice to subject of record and opportunity to obtain injunction.* Except as provided in 441—subrule 175.41(2), after the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

9.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

9.4(5) *Request granted.* Except as provided in 441—subrule 175.41(2), when the custodian grants a request for access to a confidential record, the custodian shall notify the requester or the person who is to receive the information and include any limits on the examination and copying of the record.

9.4(6) *Records requiring special procedures.* Special procedures are required for access to:

- a. Child abuse information. Access to child abuse information is obtained according to rules 441—175.41(235A) and 441—175.42(235A).
- b. Dependent adult abuse information. Access to adult abuse information is governed by rule 441—176.9(235A).

441—9.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examinations. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

9.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

9.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian.

a. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request.

b. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit stating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts.

c. Requests to temporarily treat a record as a confidential record shall specify the precise period of time for which that treatment is requested.

d. A person filing such a request shall, if possible, provide a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the department by the person requesting confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

9.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the department does not request that it be withheld from public inspection under Iowa Code section 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

9.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

9.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

9.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of

that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

9.5(7) *Requesting privacy protection for protected health information.*

a. Requesting restrictions on protected health information use or disclosure. The department will follow the requirements of 45 CFR §164.522 as amended to March 26, 2013, in responding to these requests.

b. Requesting the receipt of communications of protected health information by alternative means or at alternative locations. The department will follow the requirements of 45 CFR §164.522 as amended to March 26, 2013, in responding to these requests. For Medicaid and hawki, the subject is required to clearly indicate the reason for requesting the confidential communication. Facilities shall not require the subject to explain the basis for the request as a condition of providing confidential communications.

441—9.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.

9.6(1) *All programs.* Except as otherwise provided by law, a subject may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that subject. However, the subject is not authorized to alter the original copy of the record or to expand the official record of any department proceeding.

a. The subject shall send the request to review such a record or the written statement of additions, dissents, or objections to the department.

b. The request to review such a record or the written statement of additions, dissents, or objections must be dated and signed by the subject and shall include the current address and telephone number of the subject or the subject's representative.

9.6(2) *Additional procedures for protected health information.* The department will follow the protected health information right to amend standards as outlined in 45 CFR §164.526 as amended to March 26, 2013. The subject shall provide a reason to support the requested amendment.

441—9.7(17A,22,228) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records to be disclosed, the particular person or class of persons to whom the record may be disclosed, and the time period during which the record may be disclosed. The subject of the record and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity. Appearance of counsel before the department on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the department to disclose records about that person to the person's attorney. An attorney requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record. No confidential information about clients of the department shall be released without the client's consent, except as otherwise provided by law. Release of confidential information includes granting access to or allowing the copying of a record, providing information either in writing or orally, or acknowledging information to be true or false.

9.7(1) *Release forms.*

a. Releases allowing the department to provide confidential information, including protected health information. Subjects should complete an authorization for release on a form that meets the requirements of applicable law.

b. Releases allowing the department to provide protected health information under HIPAA. The department shall not require a subject to sign a HIPAA authorization form as a condition of treatment, payment, enrollment in a health plan, or eligibility for benefits. The department as a health care provider may require a subject to sign a HIPAA authorization form for the use or disclosure of protected health information for research, as a condition of the subject's receiving research-related treatment. A subject may revoke a HIPAA authorization at any time, provided that the revocation is in writing using a form that meets the requirements of applicable law, except to the extent that the department has taken action in reliance thereon.

c. Releases allowing the department to obtain confidential information from a third party. The department is required to obtain confidential information from third parties. The department may make these requests unless prohibited by applicable law or when the client has authorized the release on one of the following forms:

- (1) Authorization for Release of Information.
- (2) Household Member Questionnaire.
- (3) Bank or Credit Union Information.
- (4) Addendum for Application and Review Forms for Release of Information.
- (5) Request for School Verification.
- (6) Employer's Statement of Earnings.
- (7) Verification of Educational Financial Aid.
- (8) Financial Institution Verification.
- (9) Authorization to Obtain or Release Health Care Information.

d. Releases for photographs and recordings. The department may seek permission to use photographs in department publications on a form that meets the requirements of applicable law. The department will obtain authorization from the subject or person responsible (such as a guardian, custodian, or personal representative) for the subject before taking photographs or making any type of recording for any purpose other than those specifically allowed by law or for internal use within an institution.

9.7(2) Exceptions to use of release forms.

a. Public official. A letter from the subject to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the department shall be treated as an authorization to release information upon receipt of appropriate authorization from the subject to do so. The department shall release only the minimum amount of information necessary about the subject to the official to resolve the matter. If the information includes protected health information, the department may only provide the protected health information if, in the exercise of professional judgment, the department determines that disclosure is in the best interest of the subject. When the department determines that disclosure is in the subject's best interest, the department may disclose only the protected health information that is directly relevant to the public official's intervention with the matter involving the department.

b. Medical emergency. Department staff may authorize release of confidential information to medical personnel in a medical emergency if the subject is unable to give or withhold consent. As soon as possible after the release of information, the subject shall be advised of the release.

c. Abuse information. Consent to release information is not required to gather information for investigations of child abuse or dependent adult abuse.

9.7(3) Opportunity for subject to agree or object for protected health information under HIPAA. This subrule describes when the department may use or disclose protected health information, without a written authorization, to persons involved in the subject's care and for notification purposes. However, the department shall give the subject an opportunity to agree or object unless this requirement is waived as specified in paragraph 9.7(3)"e."

a. Involvement in the subject's care. The department may, in accordance with paragraphs 9.7(3) "c," "e," and "f," disclose protected health information that is directly relevant either to a subject's care or to payment related to the subject's care, provided payment is relevant to the person's involvement in the subject's care. The person involved must be:

- (1) A family member;
- (2) Another relative;
- (3) A close personal friend of the subject; or
- (4) Any other person identified by the subject.

b. Notification purposes. The department may use or disclose protected health information to notify, or assist in notifying, identifying or locating a family member, a personal representative of the subject, or another person responsible for the care of the subject of the subject's location, general condition or death. For disaster relief purposes, the use or disclosure shall be in accordance with paragraph 9.7(3) "f."

c. Uses and disclosures with the subject present. If the subject is present for, or available before, a use or disclosure permitted by this subrule and has the capacity to make health care decisions, the department may use or disclose the protected health information if the department:

- (1) Obtains the subject's agreement;
- (2) Provides the subject with the opportunity to object to the disclosure, and the subject does not express an objection; or
- (3) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the subject does not object to the disclosure.

d. Informing the subject. The department may orally inform the subject of and obtain the subject's oral agreement or objection to a use or disclosure permitted by this subrule.

e. Limited uses and disclosures when the subject is not present. When the subject is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the subject's incapacity or an emergency circumstance, the department may, in the exercise of professional judgment, determine that disclosure is in the best interest of the subject.

(1) When the department determines that disclosure is in the subject's best interest, the department may disclose only the protected health information that is directly relevant to the person's involvement with the subject's health care.

(2) The department may use professional judgment and its experience with common practice to make reasonable inferences of the subject's best interest in allowing a person to act on behalf of the subject to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of protected health information.

f. For disaster relief purposes. The department may use protected health information or disclose protected health information to a public or private organization authorized by law or by its charter to assist in disaster relief efforts for the purpose of coordinating with these organizations the uses or disclosures permitted by paragraph 9.7(3) "b." The requirements in paragraphs 9.7(3) "c" and "d" apply to these uses and disclosures to the extent that the department, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

441—9.8(17A,22) Notice to suppliers of information. When the department requests a person to supply information about that person, the department shall notify the person of how the information will be used, which entities outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. The notice shall generally be given at the first contact with the department and need not be repeated. Where appropriate, the notice may be given to a person's legal or personal representative. Notice may be withheld in an emergency or where it would compromise the purpose of a department investigation.

441—9.9(17A,22) Release to subject. The department will follow the access of individuals to protected health information standards as outlined in 45 CFR §164.524 as amended to February 6, 2014. If the department does not maintain the protected health information that is the topic of the subject's request

for access, and the department knows where the requested information is maintained, the department shall inform the subject where to direct the request for access.

441—9.10(17A,22) Use and disclosure without consent of the subject. Open records are routinely disclosed without the consent of the subject. To the extent allowed by law, the department may also use and disclose confidential information without the consent of the subject or the subject's representative.

9.10(1) Routine use. To the extent allowed by law, the following are considered routine uses of all department records:

a. Disclosure to employees and agents of the department as needed for the performance of their duties.

b. Transfers of information within the department, to other state or federal agencies, agents of tribes and tribal public health authorities, or to local units of government as necessary to administer the program for which the information is collected or as necessary to administer a program within the other entity.

c. To a recipient who has provided the department with advance written assurance that the record will be used solely to create a statistical report. The department shall not release confidential data or information pursuant to this chapter unless the department and the recipient have executed an agreement that includes the conditions under which the confidential data or information may be used and a restriction on the further disclosure of the data or information.

9.10(2) Audits and health oversight activities.

a. *Audits.* Information concerning program expenditures and client eligibility is released to staff of the state executive and legislative branches who are responsible for ensuring that public funds have been managed correctly. Information is also released to auditors from federal agencies when those agencies provide program funds.

b. *Health oversight activities.* The department will follow the uses and disclosures standards for health oversight activities as outlined in 45 CFR §164.512 as amended to June 25, 2024.

9.10(3) Program review. Information concerning client eligibility and benefits is released to state or federal officials responsible for determining whether the department is operating a program lawfully. These officials include the ombudsman office under Iowa Code section 2C.9, the auditor of state under Iowa Code section 11.2, the Office of Inspector General in the federal Department of Health and Human Services, and the Centers for Medicare and Medicaid Services.

9.10(4) Contracts and agreements with agencies and persons.

a. The department may enter into contracts or agreements with public or private agencies to carry out the department's official duties or as necessary to administer a program within the other agency. Information necessary to carry out these duties may be shared with these agencies. The department may disclose protected health information to a business associate and may allow a business associate to create or receive protected health information on its behalf if the department obtains satisfactory assurance that the business associate will appropriately safeguard the information.

b. The department may enter into agreements to share information with agencies administering federal or federally assisted programs which provide assistance or services directly to persons on the basis of need. Only information collected in the family investment program, the child care assistance program, the food assistance program, the refugee resettlement program, or the child support recovery program may be shared under these agreements.

c. To meet federal income and eligibility verification requirements, the department has entered into agreements with the department of workforce development, the United States Internal Revenue Service, and the United States Social Security Administration. The department obtains information regarding persons whose income or resources are considered in determining eligibility and the amount of benefits for the family investment program, refugee cash assistance, child care assistance, food assistance, Medicaid, state supplementary assistance and foster care. Identifying information regarding clients of these programs is released to these agencies. The information received may be used for eligibility and benefit determinations.

d. To meet federal requirements under the Immigration Reform and Control Act of 1986 (IRCA) relating to the Systematic Alien Verification for Entitlements (SAVE) program, the department has entered into an agreement with the Bureau of Citizenship and Immigration Service (BCIS). Under the agreement, the department exchanges information necessary to verify alien status for the purpose of determining eligibility and the amount of benefits for the family investment program, refugee cash assistance, food assistance, Medicaid, state supplementary assistance and foster care assistance. Identifying information regarding these subjects is released to the BCIS. The information received may be used for eligibility and benefit determinations.

e. The department has entered into an agreement with the department of workforce development to provide services to family investment program clients participating in the PROMISE JOBS program as described at 441—Chapter 93. Information necessary to carry out these duties shall be shared with the department of workforce development, as well as with its subcontractors.

f. The department has entered into an agreement with the department of education, vocational rehabilitation, disability determination services, to assist with Medicaid disability determinations.

g. The department has entered into an agreement with the department of education to share information that assists both schools and department clients in carrying out the annual verification process required by the United States Department of Agriculture, Food and Nutrition Service. That federal agency requires the department of education and local schools to verify eligibility of a percentage of the households approved for free-meal benefits under the school lunch program. When a department office receives a written request from the local school, the department office responds in writing with the current family investment program and food assistance program status of each recipient of free meals listed in the request. Other client-specific information is made available only with written authorization from the client.

9.10(5) Release for judicial and administrative proceedings. Information is released to the court as required in Iowa Code sections 125.80, 125.84, 125.86, 229.8, 229.10, 229.13, 229.14, 229.15, 229.22, 232.48, 232.49, 232.52, 232.71B, 232.81, 232.97, 232.98, 232.102, 232.111, 232.117 and 235B.3.

a. The department may disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal, provided that the department discloses only the protected health information expressly authorized by the order and the court makes the order knowing that the information is confidential.

b. When a court subpoenas information that the department is prohibited from releasing, the department shall advise the court of the statutory and regulatory provisions against disclosure of the information and shall disclose the information only on order of the court.

9.10(6) Fraud. Information concerning suspected fraud or misrepresentation to obtain department services or assistance is disclosed to DIAL and to law enforcement authorities.

9.10(7) Service referrals. Information concerning clients may be shared with purchase of service providers under contract to the department.

a. Information concerning the client's circumstances and need for service is shared with prospective providers to obtain placement for the client. If the client is not accepted for service, all written information released to the provider shall be returned to the department.

b. When the information needed by the provider is mental health information or substance abuse information, the subject's specific consent is required.

9.10(8) Medicaid billing. Only the following information shall be released to bona fide providers of medical services in the event that the provider is unable to obtain it from the subject and is unable to complete the Medicaid claim form without it:

- a. Patient identification number.
- b. Health coverage code as reflected on the subject's medical card.
- c. The subject's date of birth.
- d. The subject's eligibility status for the month that the service was provided.
- e. The amount of spenddown.
- f. The bills used to meet spenddown.

9.10(9) Reserved.

9.10(10) *Child support recovery.* The child support recovery unit has access to information from most department records for the purpose of establishing and enforcing support obligations. Information about absent parents and recipients of child support services is released according to the provisions of Iowa Code chapters 234, 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 252K, 598, and 600B and any other support chapter. Information is also released to consumer reporting agencies as specified in rule 441—98.116(252B).

9.10(11) *Refugee resettlement program.* Contacts with both sponsor and resettlement agencies are made as a part of the verification process to determine eligibility or the amount of assistance. When a refugee applies for cash or Medicaid, the refugee's name, address, and telephone number are given to the refugee's local resettlement agency.

9.10(12) *Abuse investigation.* The central abuse registry disseminates child abuse information and dependent adult abuse information as provided in Iowa Code sections 235A.15 and 235B.7, respectively. Reports of child abuse and dependent adult abuse investigations are submitted to the county attorney as required in Iowa Code sections 232.71B and 235B.3. Results of the investigation of a report by a mandatory reporter are communicated to the reporter as required in Iowa Code sections 235A.17(2) and 235A.15(2) "b"(5).

9.10(13) *Foster care.* Information concerning a child's need for foster care is shared with foster care review committees or foster care review boards and persons named in the case permanency plan.

9.10(14) *Adoption.* Adoptive home studies completed on families who wish to adopt a child are released to licensed child-placing agencies, to the United States Immigration and Naturalization Service, and to adoption exchanges. Information is released from adoption records as provided in Iowa Code sections 600.16 and 600.24.

9.10(15) *Disclosures to law enforcement.*

a. Disclosures by workforce members who are crime victims. The department is not considered to have violated the requirements of this chapter if a member of its workforce who is the victim of a criminal act discloses confidential information to a law enforcement official, provided that:

(1) The confidential information disclosed is about the suspected perpetrator of the criminal act and intended for identification and location purposes; and

(2) The confidential information disclosed is limited to the following information:

1. Name and address.
2. Date and place of birth.
3. Social security number.
4. ABO blood type and Rh factor.
5. Type of injury.
6. Date and time of treatment.
7. Date and time of death, if applicable.
8. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

b. Crime on premises. The department may disclose to a law enforcement official protected health information that the department believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the department.

c. Decedents. The department may disclose protected health information to a law enforcement official about a subject who has died when the death resulted from child abuse or neglect or the death occurred in a department facility.

d. Other. The department may disclose confidential information to a law enforcement official when otherwise required or allowed by this chapter, such as disclosures about victims of child abuse or neglect; disclosures to avert a threat to health or safety, or to report suspected fraud; disclosures required by due process of law, such as disclosures for judicial and administrative proceedings; or other disclosures required by law.

9.10(16) *Response to law enforcement.* The address of a current recipient of family investment program benefits may be released upon request to a federal, state or local law enforcement officer if the officer provides the name of the recipient, and the officer demonstrates that:

a. The recipient is a fugitive felon who is fleeing prosecution, custody or confinement after conviction under state or federal law, or who is a probation or parole violator under state or federal law, or

b. The recipient has information that is necessary for the officer to conduct the officer's official duties, and

c. The location or apprehension of the recipient is within the officer's official duties.

9.10(17) *Research and evaluation.* Disclosure is made to employees of federal, state and local agencies and other investigators for purposes of bona fide research or evaluation. The department shall not release data or information pursuant to this paragraph unless the department and the researcher have executed an agreement that includes the conditions under which the confidential data or information may be used and restrictions on further disclosure of the data or information.

a. Mental health information may be disclosed for purposes of scientific research as provided in Iowa Code sections 228.5 and 229.25. Requests to do research involving records of a department facility shall be approved by the designated authority.

b. Abuse registry information may be disclosed for research purposes as provided in rules 441—175.42(235A) and 441—176.12(235B) and authorized by Iowa Code sections 235A.15(2) “e”(1) and 235B.6(2) “e”(1).

c. For research relating to protected health information, the researcher shall provide the department with information about the nature of the research, the protocol, the type of information being requested, and any other relevant information that is available concerning the request. If the researcher feels that contact with the subject is needed, the researcher shall demonstrate to the department that the research cannot be conducted without contact with the subject. The researcher shall pay for the costs of obtaining authorizations needed to contact the subjects and for the cost of files and preparation needed for the research.

9.10(18) *Threat to health or safety.*

a. All programs. A client's name, identification, location, and details of a client's threatened or actual harm to department staff or property may be reported to law enforcement officials. Other information regarding the client's relationship to the department shall not be released. When a department staff person believes a client intends to harm someone, the staff person may warn the intended victim or police or both. Only the name, identification, and location of the client and the details of the client's plan of harm shall be disclosed.

b. Protected health information. The department will follow the disclosure standards in 45 CFR §164.512 as amended to June 25, 2024.

9.10(19) *Required by law.*

a. Information is shared with other agencies without a contract or written agreement when federal law or regulations require it.

b. The department may use or disclose protected health information to the extent that use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of the law.

c. State law shall preempt rules in this chapter about protected health information when any one of the following conditions exists:

(1) Exception granted by Secretary of Health and Human Services under 45 CFR §160.204 as amended to March 26, 2013.

(2) State law more stringent. The provision of state law relates to the privacy of protected health information and is more stringent than a requirement of this chapter, within the meaning of “more stringent” found at 45 CFR §160.202 as amended to March 26, 2013.

(3) Reporting requirements. The provision of state law, including state procedures established under the law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.

(4) Requirements related to audits, monitoring, evaluation, licensing, and certification. The provision of state law requires a health plan to report, or to provide access to, information for the

purpose of management audits, financial audits, program monitoring and evaluation, or the licensure or certification of facilities and persons.

9.10(20) *Treatment, payment, or health care operations.*

a. The department may use or disclose protected health information for treatment, payment, or health care operations, as permitted by 45 CFR §164.506 as amended to March 26, 2013, except for psychotherapy notes, which are subject to the limits described in paragraph 9.10(21)“*b.*” The use or disclosure shall be consistent with other applicable requirements of this chapter.

b. The department may use or disclose psychotherapy notes without an authorization for any one of the following reasons:

(1) To carry out the following treatment, payment, or health care operations:

1. Use by the originator of the psychotherapy notes for treatment.

2. Use or disclosure by the department for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling.

3. Use or disclosure by the department to defend itself in a legal action or other proceeding brought by the subject.

(2) When required by the Secretary of Health and Human Services to investigate or determine the department’s compliance with federal HIPAA regulations.

(3) For health oversight activities with respect to the oversight of the originator of the psychotherapy notes.

(4) When necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public as described in this chapter.

(5) When required by law as described in this chapter.

(6) To disclose protected health information in the designated record set to a coroner or medical examiner as described in this chapter.

9.10(21) *Other uses and disclosures for which an authorization or opportunity to agree or object is not required.* The department may use or disclose protected health information for which an authorization or opportunity to agree or object is not required as permitted by 45 CFR §164.512 as amended to June 25, 2024.

9.10(22) *Victims of domestic violence.* The department shall disclose confidential information about an individual whom the department reasonably believes to be a victim of domestic violence when required by state law.

9.10(23) *Whistle blowers.* The department is not considered to have violated the requirements of this chapter when a member of its workforce or a business associate discloses protected health information, provided that:

a. The workforce member or business associate has a good-faith belief that the department or a business associate has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or has provided care, services, or conditions that potentially endanger one or more patients, workers, or the public; and

b. The disclosure is made to one of the following:

(1) A health oversight agency or public health authority authorized by law to investigate or oversee conduct or conditions for the purpose of reporting the allegation of failure to meet professional standards or misconduct.

(2) An appropriate health care accreditation organization.

(3) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate.

9.10(24) *Secondary to a use or disclosure of protected health information.* The department may use or disclose protected health information that is secondary to a use or disclosure otherwise permitted or required by these rules, such as when a visitor in a facility overhears a doctor speaking to a subject about the subject’s health.

9.10(25) *De-identified data or a limited data set.* The department may use or disclose protected health information to create information that is de-identified or a limited data set under the conditions specified in 45 CFR §164.514 as amended to June 7, 2013.

441—9.11(22) Availability of records.

9.11(1) *Open records.* Department records are open for public inspection and copying unless otherwise provided by rule or law.

9.11(2) *Confidential records.* Iowa Code chapters governing the operations of the department establish the confidential nature of many department records. The department also administers several federally funded programs and is authorized by Iowa Code section 22.9 to enforce confidentiality standards from federal law and regulation as required for receipt of the funds where the department has determined that the right to examine and copy public records under Iowa Code section 22.2 would cause the denial of funds, services, or essential information from the United States government that would otherwise be available to the department.

9.11(3) *Authority to release confidential records.* The department may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other provision of law.

441—9.12(22,252G) Personally identifiable information. The nature and extent of personally identifiable information collected by the department varies by the type of record. This rule describes personally identifiable information collected, maintained, and retrieved by the department by personal identifiers in record systems and the legal authority for the collection of that information. This rule also identifies the legal authority for keeping some or all of the collected personally identifiable information confidential.

9.12(1) Department administrative records.

a. Personnel records. These records contain information about employees, families and dependents, and applicants for positions with the department. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

b. Fiscal records. These records contain itemized vouchers collected from individuals pursuant to Iowa Code section 8A.514. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

c. 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 them from the clerk of the appropriate court that maintains the official copy. These records are confidential as outlined in Iowa Code sections 217.30, 22.7(4) and 622.10.

9.12(2) Program records.

a. Adoption investigator certification. These records are collected pursuant to Iowa Code chapter 600.

b. Adoption program records. These records are collected pursuant to Iowa Code sections 600.8 and 600.16. These records are confidential as outlined in Iowa Code sections 600.16 and 600.24.

c. Appeals. These records are collected pursuant to Iowa Code section 217.1. Some of these records are confidential as outlined in Iowa Code section 217.1.

d. AIDS drug reimbursement program. These records are collected for purposes of implementing a federal grant program authorized by HR 1827. Certain patient records are confidential as outlined in Iowa Code section 141A.9.

e. Brain injury service program recipients. These records are collected pursuant to Iowa Code section 135.22B. These records are confidential as outlined in Iowa Code section 135.22(2).

- f. Center for congenital and inherited disorders.* These records are collected pursuant to Iowa Code chapter 136A. These records are confidential as outlined in Iowa Code section 136A.7.
- g. Central registry for brain or spinal cord injuries.* These records are collected pursuant to Iowa Code section 135.22. Except for statistical reports, these records are maintained as confidential pursuant to Iowa Code section 135.22.
- h. Child abuse program.* These records are collected pursuant to Iowa Code section 235A.14. These records are confidential as outlined in Iowa Code sections 235A.13, 235A.15, 235A.16, and 235A.17.
- i. Childcare assistance client records.* These records are collected pursuant to Iowa Code chapter 237A. These records are confidential as outlined in Iowa Code section 237A.13.
- j. Childcare facility licensing.* These records are collected pursuant to Iowa Code chapter 237A. Some of these records are confidential as outlined in Iowa Code section 237A.7.
- k. Childhood lead poisoning prevention program.* These records are collected pursuant to Iowa Code sections 135.100 through 135.105. Certain of these records are confidential as outlined in Iowa Code chapter 139A.
- l. Child support recovery program.* These records are collected pursuant to Iowa Code chapters 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, and 252K and sections 144.13, 144.26, 232.147, 234.39, 595.4, 598.22B and 600.16A. These records are confidential as outlined in Iowa Code sections 252B.9 and 252G.5, 42 U.S.C. §654(26) (as amended to August 1, 2024), 42 U.S.C. §654a(d) (as amended to August 1, 2024), and 45 CFR §303.21 and 45 CFR 307.13 (as amended to August 1, 2024).
- m. Chronic disease prevention and management programs.* These records are collected pursuant to Iowa Code section 135.11(1). Certain medical information in these records is confidential as outlined in Iowa Code section 22.7(2).
- n. Collection service center payment.* These records are collected pursuant to Iowa Code sections 252B.9, 252B.13A and 252B.16. These records are confidential as outlined in Iowa Code section 252B.9(2) and 42 U.S.C. §654a(d) and 45 CFR §307.13 (as amended to August 1, 2024).
- o. Criminal and juvenile justice information.* These records are collected pursuant to Iowa Code sections 216A.136 and 216A.138 and through interagency agreements.
- p. Dental health program.* These records are collected pursuant to Iowa Code section 135.11(19). Certain medical information in these records is confidential as outlined in Iowa Code section 22.7(2).
- q. Dependent adult abuse program.* These records are collected pursuant to Iowa Code section 235B.1. These records are confidential as outlined in Iowa Code section 235B.1.
- r. Domestic abuse death review team.* These records are collected pursuant to Iowa Code section 135.110. These records are confidential as outlined in Iowa Code section 135.11.
- s. Emergency medical services.* These records are collected pursuant to Iowa Code chapter 147A.
- t. Environmental health program.* These records are collected pursuant to Iowa Code section 135.11(1) and PL 96-510, Section 104(d)(1), 40 CFR 763 effective June 28, 1983, and 40 CFR 761 effective May 31, 1979, dealing with asbestos, PCB and other environmental health factors. Certain medical information in the work-related disease program file may be confidential as outlined in Iowa Code section 22.7(2). Certain asbestos and PCB inspection records are collected under contract with the federal Environmental Protection Agency, and requests for such records will be referred to that agency.
- u. Family investment program client records.* These records are collected pursuant to Iowa Code section 234.6. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §602(a)(1) and §1306a (as amended to August 1, 2024).
- v. Food assistance client files.* These records are collected pursuant to Iowa Code section 234.6. These records are confidential as outlined in Iowa Code section 217.30 and 7 U.S.C. §2020(e)(8) as amended to August 1, 2024, and 7 CFR 272.1(c) and (d) (as amended to June 23, 2000).
- w. Foster care client/service files.* These records are collected pursuant to Iowa Code sections 237.3 through 237.5. These records are confidential as outlined in Iowa Code section 237.9.
- x. Foster care facility licensing.* These records are collected pursuant to Iowa Code chapter 237. Some of these records are confidential as outlined in Iowa Code section 237.9.

y. *Foster care review board files.* These records are collected pursuant to Iowa Code section 237.17. Some of these records are confidential as outlined in Iowa Code section 237.21.

z. *Hawki client files.* These records are collected pursuant to Iowa Code section 514I.4. These records are confidential as outlined in Iowa Code section 514I.4, and 42 CFR §457.1110 as amended to January 1, 2001.

aa. *Human rights advocacy files.* These records are collected pursuant to Iowa Code chapter 216A; the Omnibus Budget Reconciliation Act, P.L. 97-35; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; and the Victims Compensation and Assistance Act, P. L. 98-473. These records are confidential as outlined in Iowa Code section 22.7(18).

bb. *Long term and managed care ombudsman complaints.* These records are collected pursuant to Iowa Code sections 135C.37 and 231.42. These records are confidential as outlined in Iowa Code sections 135C.37 and 231.42.

cc. *Maternal and child health program.* These records are collected pursuant to Iowa Code section 135.11(20). Records that contain medical information are confidential pursuant to Iowa Code section 22.7(2).

dd. *Medicaid clients.* These records are collected pursuant to Iowa Code section 249A.4. These records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §1396a(7), and 42 CFR §431.300 to 307 as amended to November 13, 1996.

ee. *Medicaid provider information.* These records are collected pursuant to Iowa Code section 249A.4. Some of these records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §1396a(7), and 42 CFR §431.300 to 307 as amended to November 13, 1996.

ff. *Newborn and infant hearing screening program.* These records are collected pursuant to Iowa Code section 135.131. Information that identifies an individual patient is confidential as outlined in Iowa Code section 135.131.

gg. *Nutrition and WIC (supplemental food program for women, infants and children) program.* These records are collected pursuant to Iowa Code section 135.11(1) and Chapter 17 of the federal Child Nutrition Act of 1966 as amended to January 5, 2023. These records are confidential as outlined in 7 CFR 246 as amended to August 1, 2024, and Iowa Code section 22.7(2).

hh. *Radiological health program.* These records are collected pursuant to Iowa Code chapters 136B and 136C. Certain of these records are confidential as outlined in 641—39.4(24).

ii. *Refugee health program.* These records are collected pursuant to Iowa Code section 135.11(1) and Section 412(c)(3) of the federal Immigration and Naturalization Act. Records that contain medical information are confidential pursuant to Iowa Code section 22.7(2).

jj. *Refugee resettlement client records.* These records are collected pursuant to Iowa Code section 217.1. These records are confidential as outlined in Iowa Code section 217.30, and 45 CFR §400.27 as amended to March 22, 2000.

kk. *Reportable diseases and other diseases and health conditions, including lead and other heavy metal poisonings.* These records are collected pursuant to Iowa Code chapter 139A. Except for statistical reports, these records are confidential as required by Iowa Code chapter 139A.

ll. *Reportable sexually transmitted diseases or infections.* These records are collected pursuant to Iowa Code chapter 139A. Except for statistical reports, these records are confidential as required by Iowa Code chapter 139A.

mm. *State institution resident records.* These records are collected pursuant to Iowa Code section 218.1. These records are confidential as outlined in Iowa Code sections 218.22, 229.24 and 229.25.

nn. *State supplementary assistance clients.* These records are collected pursuant to Iowa Code chapter 249. Some of these records are confidential as outlined in Iowa Code section 217.30.

oo. *Substance abuse client records.* These records are collected pursuant to Iowa Code chapters 125 and 218 and sections 234.6 and 249A.4. These records are confidential as outlined in Iowa Code sections 125.37 and 125.93, 42 U.S.C. §29 dd.3 and ee.3 as amended to January 1, 2024, 42 CFR Part 2 as amended to April 16, 2024, and 38 U.S.C. §4132 as amended to August 1, 2024.

pp. Substance abuse program licensing complaints. These records are collected pursuant to Iowa Code chapter 125. Certain information in these records may be confidential as outlined in Iowa Code sections 22.7(2), 22.7(18) and 125.37.

qq. Title IV-E foster care and adoption assistance client files. These records are collected pursuant to Iowa Code sections 217.1 and 600.17 through 600.22. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §671(a)(8), and 45 CFR 1355.30(1) (as amended to January 20, 2016).

rr. Veterinary public health. These records are collected pursuant to Iowa Code chapter 139A. Certain medical information in these records may be confidential as outlined in Iowa Code chapter 139A.

ss. Vital records. These records are collected pursuant to Iowa Code chapter 144, including records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence. These records are confidential as outlined in Iowa Code section 144.43.

9.12(3) Other restricted data contained in department client records includes:

a. Department of revenue information. These records are collected pursuant to Iowa Code sections 252B.5 and 252B.9. These records are confidential as outlined in Iowa Code sections 421.17 and 422.20(1).

b. Department of workforce development information. These records are collected pursuant to Iowa Code chapters 239B and 249A and section 252B.9. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §503(d) and (e).

c. Income and eligibility verification system. These records are collected pursuant to Iowa Code chapters 239B and 249A and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §1230b-7.

d. Department of public safety information. These records are collected pursuant to Iowa Code sections 237.8, 237A.5 and 252B.9. These records are confidential as outlined in Iowa Code sections 692.2, 692.3, 692.8 and 692.18.

e. Federal tax return information. These records are collected pursuant to Iowa Code chapters 239B, 249A and 252B and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 422.20(2) and 26 U.S.C. §6103.

f. Juvenile court information. These records are collected pursuant to Iowa Code chapter 232 and section 234.6. These records are confidential as outlined in Iowa Code sections 232.48, 232.97 and 232.147 through 232.151.

g. Peer review organization. These records are collected pursuant to Iowa Code section 249A.4. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §1320c-9.

h. United States Department of Health and Human Services information. These records are collected pursuant to Iowa Code chapters 239B, 249, 249A and 252B and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 217.30 and 42 CFR Part 401.134(c) as amended to October 1, 2002.

441—9.13(17A,22) Special policies and procedures for protected health information. The department will follow all special policies and procedures for using and disclosing protected health information as outlined in 45 CFR Part 164 as amended through December 31, 2023, including the minimum necessary standard, uses and disclosures for premium rating and related purposes, verification and documentation requirements, notice of privacy practices, the right to receive an accounting of disclosures, complaint procedures, appeal rights and record retention.

441—9.14(17A,22) Person who may exercise rights of the subject.

9.14(1) Adults. When the subject is an adult, including an emancipated minor, the subject's rights under this rule may also be exercised by the subject's legal or personal representative, except as provided in subrule 9.14(3).

9.14(2) Minors. Within the limits of subrule 9.14(3), when the subject is an unemancipated minor, the subject's rights under this rule shall be exercised only by the subject's legal representative, except as follows:

a. When the department otherwise deals with the minor as an adult, as in the case of minor parents under the family investment program.

b. When otherwise specifically provided by law. However, minor subjects shall be granted access to their own records upon request, subject to the limits in rule 441—9.9(17A,22).

9.14(3) Exceptions.

a. Scope of authority. Legal and personal representatives may act only within the scope of their authority. For protected health information, the designation must reflect the subject's ability to make health care decisions and receive protected health information. For example, court-appointed conservators shall have access to and authority to release only the following information:

- (1) Name and address of subject.
- (2) Amounts of assistance or type of services received.
- (3) Information about the economic circumstances of the subject.

b. Mental health information. Only an adult subject or a subject's legal representative may consent to the disclosure of mental health information. Records of involuntary hospitalization shall be released only as provided in Iowa Code section 229.24. Medical records of persons hospitalized under Iowa Code chapter 229 shall be released only as provided in Iowa Code section 229.25.

c. Substance abuse information. Only the subject may consent to the disclosure of substance abuse information, regardless of the subject's age or condition.

d. Failure to act in good faith. If the department has reason to believe that the legal or personal representative is not acting in good faith in the best interests of the subject, the department may refuse to release information on the authorization of the legal or personal representative.

e. Abuse, neglect, and endangerment situations. Notwithstanding a state law or any other requirement of this chapter, the department, in the exercise of professional judgment, may elect not to treat a person as a subject's personal representative if:

- (1) The department has reason to believe that the subject has been or may be subjected to domestic violence, abuse, or neglect by the person; or
- (2) The department has reason to believe that treating the person as a personal representative could endanger the subject.

f. Protected health information. A parent, guardian, or other person acting in place of a parent who does not represent the minor for protected health information may still access protected health information about the minor if required by law.

g. Deceased subjects. If, under applicable law, an executor, administrator, or other person has authority to act on behalf of a deceased subject or of the subject's estate, the department shall treat that person as a personal representative.

h. Other. If, under applicable law, the subject of a confidential record is precluded from having a copy of a record concerning the subject disclosed to a third party, the department shall not treat the third party as a personal representative.

These rules are intended to implement Iowa Code chapters 17A, 22, 135, 217, 228, and 252G and the Health Insurance Portability and Accountability Act of 1996.

ITEM 3. Rescind 441—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
NOTICES

441—16.1(17A) Definitions.

"*Adequate notice*" means any notice of decision or notice of action issued by the department or on the department's behalf that includes all the following information:

1. A description of the action taken;
2. The effective date of the action;

3. The specific reasons supporting the action, stated language likely to be understood by the average program applicant or enrollee;
4. References to applicable provisions of law supporting the action;
5. An explanation of the right to appeal; and
6. The circumstances under which assistance is continued when an appeal is filed.

“Adverse benefit determination” means any adverse action taken by the department regarding a program administered by the department or on the department’s behalf, excluding department decisions about requests for waivers of administrative rules.

“Assistance program” means a program administered by the department or on the department’s behalf through which qualifying individuals receive benefits or services.

“Enrollee” means any applicant for, or recipient of, benefits or services pursuant to an assistance program.

“Timely” means that the notice is sent at least ten calendar days before the date the adverse benefit determination would become effective. The timely notice period begins on the day after the notice is sent.

441—16.2(17A) Notices.

16.2(1) *Written timely and adequate notice.* When required by federal or state law, the department will provide written timely and adequate notice of the right to appeal any adverse benefit determination that affects an individual who is applying for, or receiving benefits from, an assistance program. The department will also provide written timely notice of pending actions for a federal tax or debtor offset.

16.2(2) *Adequate notice.* The department will give adequate notice of the approval or denial of assistance or services and the approval or denial of a license, certification, approval, registration, or accreditation.

16.2(3) *Dispensing with timely notice.* Timely notice may be dispensed with, but adequate notice will be sent no later than the date benefits would have been issued, when:

- a. There is factual information confirming the death of the enrollee or of the family investment program payee and there is no relative available to serve as a new payee.
- b. The enrollee provides a clearly written, signed statement that the enrollee no longer wishes to receive assistance, or gives information that requires termination or reduction of assistance, and the enrollee has indicated, in writing, that the enrollee understands that the consequence of supplying the information is termination or reduction of assistance.
- c. The enrollee has been admitted or committed to an institution that does not qualify for payment under an assistance program.
- d. The enrollee has been placed in skilled nursing care, intermediate care, or long-term hospitalization.
- e. The whereabouts of the enrollee are unknown and mail directed to the enrollee has been returned by the post office indicating no known forwarding address. When the whereabouts of the enrollee become known during the payment period covered by the returned warrant, the warrant will be made available to the enrollee.
- f. The department establishes that the enrollee has been accepted for assistance in another state.
- g. Cash assistance or the supplemental nutrition assistance program is changed because a child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care.
- h. A change in the level of medical care is prescribed by the enrollee’s physician.
- i. A special allowance or service granted for a specific period is terminated and the enrollee has been informed in writing at the time of initiation that the allowance or service will terminate at the end of the specified period.
- j. The notice involves an adverse determination made with regard to the preadmission screening requirements.
- k. The department terminates or reduces benefits or makes changes as described at 441—subrule 40.27(3) or rule 441—75.52(249A).

l. The department terminates benefits for failure to return a completed report form, as described in paragraph 16.3(3) “*k.*”

m. The department approves or denies an application for assistance.

n. The department implements a mass change based on law or rule changes that affect a group of enrollees.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 1/27/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8958C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to ambulance service

The Department of Health and Human Services hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 249A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2397.

Purpose and Summary

The purpose of this rulemaking is to implement 2024 Iowa Acts, House File 2397. The legislation created new Iowa Code section 147A.19, which directs the Department to authorize payment for ambulance transport for persons experiencing a mental health crisis to mental health access centers in amounts similar to the payment for ambulance transport to a hospital emergency room.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8575C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 17, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend rule 441—78.11(249A) as follows:

441—78.11(249A) Ambulance service. Payment will be approved for ambulance service if it is required by the recipient's condition and the recipient is transported to the nearest hospital with appropriate facilities or to one in the same locality, from one hospital to another, to the patient's home, ~~or~~ to a nursing facility, or to a mental health access center. Payment for ambulance service to the nearest hospital for outpatient service will be approved only for emergency treatment. Ambulance service must be medically necessary and not merely for the convenience of the patient.

78.11(1) to 78.11(5) No change.

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

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8959C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to psychiatric medical institution for children plan of care team

The Department of Health and Human Services hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 85, "Services in Psychiatric Institutions," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 249A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2402, and Iowa Code chapter 249A.

Purpose and Summary

This rulemaking implements 2024 Iowa Acts, House File 2402, which allowed a physician assistant or advanced registered nurse practitioner to serve as a member of the plan of care team for children admitted to a psychiatric medical institution for children (PMIC) as a member who is experienced in child psychiatry or child psychology. The legislation also allows a physician assistant or advanced registered nurse practitioner to be a member of the team to complete the certification of need for services for a PMIC placement.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8570C**. A public hearing was held on the following date(s):

- January 15, 2025
- January 21, 2025

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 Department on January 31, 2025.

Fiscal Impact

There is no fiscal impact to this rulemaking other than the underlying fiscal impact of the legislation.

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 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subparagraph **78.12(2)“a”(3)** as follows:

(3) Behavioral health intervention is not covered for members who are in an acute care or psychiatric hospital, or a long-term care facility, ~~or a psychiatric medical institution for children.~~

ITEM 2. Amend subrule 78.29(2) as follows:

78.29(2) Exclusions. Payment will not be approved for the following services:

~~a.—Services provided in a medical institution.~~

~~b. a.~~ Services performed without relationship to a specific condition, risk factor, symptom, or complaint.

~~e. b.~~ Services provided for nonspecific conditions of distress such as job dissatisfaction or general unhappiness.

~~d. c.~~ Sensitivity training, marriage enrichment, assertiveness training, and growth groups or marathons.

ITEM 3. Amend paragraph **85.3(3)“a”** as follows:

a. For persons eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person’s situation. If a social worker is a part of the team, the social worker may be from the county office of the department of ~~human services~~. A physician’s assistant or advanced registered nurse practitioner may also serve as a member of the plan of care team.

The evaluation shall be submitted to the facility on or prior to the date of the patient’s admission.

ITEM 4. Adopt the following **new** subparagraph **85.6(3)“c”(4)**:

(4) The team may also include a physician’s assistant or an advanced registered nurse practitioner.

ITEM 5. Amend paragraph **85.22(3)“a”** as follows:

a. For persons determined eligible for Medicaid prior to admission, this preadmission certification shall be performed within 45 days prior to the proposed date for admission to the facility by an independent team that includes a physician who has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and who has knowledge of the person’s situation. If a social worker is a part of the team, the social worker may be from the county office of the department of ~~human services~~. A physician’s assistant or advanced registered nurse practitioner may also serve as a member of the plan of care team.

The evaluation shall be submitted to the facility on or prior to the date of the patient’s admission.

ITEM 6. Adopt the following **new** subparagraph **85.24(3)“c”(4)**:

(4) The team may also include a physician’s assistant or an advanced registered nurse practitioner.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8960C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to child support promoting opportunities for parents program

The Department of Health and Human Services hereby adopts new Chapter 94, “Child Support Promoting Opportunities for Parents Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 252B.3(5).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 252B.3(5).

Purpose and Summary

This rulemaking is in response to Executive Order 10. This chapter provides a mechanism for the satisfaction of accrued support debt by assisting parents in overcoming the barriers that interfere with

fulfilling their obligations to their children. This chapter was previously 441—Chapter 100 and has been moved to 441—Chapter 94.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8548C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 94:

TITLE X
SUPPORT RECOVERY

CHAPTER 94

CHILD SUPPORT PROMOTING OPPORTUNITIES FOR PARENTS PROGRAM

441—94.1(252B) Definitions.

“Assigned support arrearages” means support arrearages for which all rights have been and will remain assigned to the state of Iowa.

“Designated provider” means any project approved in whole or in part by child support services and approved by the department to assist parents in overcoming the barriers that interfere with fulfilling obligations to their children. Each project must have a project plan approved by the department.

“Incentives” means satisfaction of support obligations and bypass of select enforcement tools, such as license sanction, administrative levy, and contempt.

“Participant” means a person who receives services or incentives through a project.

“Periodic support payment” means the total support payment due in each time period in accordance with the established support obligation. If no current support is due, the periodic support payment is equivalent to the last current support amount as would be ordered under 441—Chapter 98.

“Project plan” means the written policies, procedures, eligibility criteria and other components as described in subrule 94.3(2).

441—94.2(252B) Purpose and incentives. Child support services may partner with community providers and resources to offer incentives to participants to assist in overcoming barriers to fulfilling their obligations and to encourage participants’ completion of the project. The available incentives include the following:

94.2(1) Satisfaction of the assigned support arrearages.

a. A participant will be granted a partial satisfaction of the assigned support arrearages that are and that will remain owed by that participant to the state after that participant’s successful completion of the project and payment of that participant’s periodic support payments. Satisfaction granted under this subrule will apply only to those cases for which periodic support payment is credited.

b. Each satisfaction will be an amount equal to a percentage of that participant’s support arrearages, which are and which will remain owed to the state, according to the following schedule:

(1) A one-time satisfaction after six consecutive months from the participant’s completion of the project. The amount of satisfaction will be a percentage based on the amount of periodic support paid on all qualifying cases as follows:

1. When 100 percent of the periodic support is paid, the satisfaction amount will equal 50 percent of the amount owed to the state.

2. When 99 to 80 percent of the periodic support is paid, the satisfaction amount will equal 40 percent of the amount owed to the state.

3. When 79 to 60 percent of the periodic support is paid, the satisfaction amount will equal 30 percent of the amount owed to the state.

4. When 59 to 40 percent of the periodic support is paid, the satisfaction amount will equal 20 percent of the amount owed to the state.

5. When 39 to 20 percent of the periodic support is paid, the satisfaction amount will equal 10 percent of the amount owed to the state.

6. When 19 to 0 percent of the periodic support is paid, the satisfaction amount will equal 0 percent of the amount owed to the state.

(2) A one-time satisfaction after 12 consecutive months from the participant’s completion of the project. The amount of satisfaction will be a percentage based on the amount of periodic support paid on all qualifying cases as follows:

1. When 100 percent of the periodic support is paid, the satisfaction amount will equal 100 percent of the amount owed to the state.

2. When 99 to 80 percent of the periodic support is paid, the satisfaction amount will equal 80 percent of the amount owed to the state.

3. When 79 to 60 percent of the periodic support is paid, the satisfaction amount will equal 60 percent of the amount owed to the state.

4. When 59 to 40 percent of the periodic support is paid, the satisfaction amount will equal 40 percent of the amount owed to the state.

5. When 39 to 20 percent of the periodic support is paid, the satisfaction amount will equal 20 percent of the amount owed to the state.

6. When 19 to 0 percent of the periodic support is paid, the satisfaction amount will equal 0 percent of the amount owed to the state.

c. A participant subject to an income withholding order will be eligible for the satisfaction in this subrule if the sole reason for ineligibility is a disparity between the schedules of the participant’s pay date and the scheduled date the payment is due.

d. A participant will be eligible for a satisfaction under this subrule if the participant is no longer a participant but has continued to pay the participant's periodic support payment without interruption.

94.2(2) *Enforcement processes.* Child support services may bypass select enforcement tools if the participant is actively in the project.

441—94.3(252B) Establishment of designated providers. Child support services may initiate a request for project plans to become designated providers.

94.3(1) *Contents of a request for project plans.* The request for project plans will contain the requirements for contents of the project plan and any other parameter for the specific project being advertised. The request will also contain a deadline by which project plans must be submitted to the department.

94.3(2) *Contents of project plans.* Each project will have and maintain a project plan. At a minimum, the project plan will contain or address the following:

a. The applicant's experience and success at integrating collaborations and services essential to the project.

b. The geographic area to be served and community need for projected services.

c. The projected number of participants to be served and the criteria to be used for the selection and termination of participants.

d. The specific parenting curriculum to be used. The curriculum must be well-established, have a track record of use and be field-tested.

e. A description of the components of the curriculum. The components of the curriculum should include personal development, responsible parenting, parenting skills, financial responsibilities, communication skills, and domestic violence prevention.

f. The schedule, location, hours of instruction and format for administering the curriculum.

g. A description of the organization and identification of staff responsible for delivering the curriculum. The staff should have experience in group facilitation and be certified trainers in the curriculum.

h. A clear explanation of how the curriculum and services will be monitored and evaluated, including how the participants will be tracked and what data will be collected.

i. Project duration.

94.3(3) *Amendments to project plan.* Participants may submit proposed amendments to their project plan in writing to the department. The department will have the option, after review, of approving or disapproving all proposed amendments to the project plan.

441—94.4(252B) Selection of designated providers. The department will have sole authority to select designated providers. The department will select which of the project plans received on or before the deadline date will be granted the status of designated providers. The selection of designated providers will be based upon the content of the project plan and must include the following:

1. Applicant's experience.

2. Geographic area selected and community need for the project.

3. Participants to be served and criteria to be used to select participants and terminate their participation.

4. The parenting curriculum to be used.

5. A description of the components of the curriculum.

6. The schedule, location, hours of instruction and format for administering the curriculum.

7. A description of the organization and identification of staff.

8. An explanation of monitoring and evaluation.

9. Project duration.

441—94.5(252B) Termination of designated providers. The department may immediately terminate child support services' participation with a designated provider if the designated provider is not fulfilling the terms of its project plan or the designated provider is not fulfilling the terms for child support services' participation in the project plan.

441—94.6(252B) Reports and records.

94.6(1) Reports. Designated providers established under these rules must report to child support services at least monthly unless otherwise mandated by the project plan. These reports must include the following:

- a. Attendance documentation with the names of participants served.
- b. Signed voluntary consent of participants seeking incentives.
- c. Certification of participants completing the curriculum.
- d. Other information as specified in the project plan.

94.6(2) Records retention. Designated providers must retain all records as necessary to meet the requirements of these rules.

441—94.7(252B) Receipt of incentives. Participants receiving incentives under these rules may continue to receive the incentives after the termination of these rules or after they are no longer participants only under subrule 94.2(1). Subrule 94.2(1) will apply to a participant or former participant for the full time period allowed in that subrule.

441—94.8(17A) Right of appeal. Child support services actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code section 252B.3(5) and chapter 17A.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8961C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to child support services

The Department of Health and Human Services hereby rescinds Chapter 95, "Collections," and adopts a new Chapter 95, "Child Support Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 217.6 and 252B.3(3).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 252B.3 through 252B.6, 252B.7, 252B.14, 252B.15, 252D.17 and 598.21C; 42 U.S.C. 657; and 45 CFR Sections 302.32, 302.38, 302.51, 302.51(b), 302.52, 303.2, 303.11, 303.33, and 303.72.

Purpose and Summary

This rulemaking is in response to Executive Order 10. These rules are intended to structure and define the essential functions of Child Support Services and are mandated by the Iowa Code.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8559C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 95 and adopt the following **new** chapter in lieu thereof:

CHAPTER 95
CHILD SUPPORT SERVICES

441—95.1(252B) Definitions.

“*Caretaker*” means a custodial parent, relative, or guardian whose needs are included in an assistance grant paid according to Iowa Code chapter 239B, who is receiving this assistance on behalf of a dependent child, or who is a recipient of nonassistance child support services.

“*Current support*” means those payments received in the amount, manner, and frequency as specified by an order for support and that are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22.

“*Date of collection*” means the date that a support payment is received by the department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier.

“*Dependent child*” means a person who meets the eligibility criteria established in Iowa Code chapter 234 or 239B, and whose support is required by Iowa Code chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598 or 600B, and any other comparable chapter.

“*Obligee*” means any person or entity entitled to child support or medical support for a child.

“*Obligor*” means a parent, relative, or guardian or any other designated person who is legally liable for the support of a child or a child’s caretaker.

“*Prepayment*” means payment toward an ongoing support obligation when the payment exceeds the current support obligation and amounts due for past months are fully paid.

“*Public assistance*” means assistance provided according to Iowa Code chapter 239B or 249A, the cost of foster care provided by the department according to Iowa Code chapter 234, or assistance provided under comparable laws of other states.

“*Responsible person*” means a parent, relative, or guardian or any other designated person who is or may be declared to be legally liable for the support of a child or a child’s caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the Iowa Supreme Court in accordance with Iowa Code section 598.21B, this means the person from whom support is sought.

“*Support*” means child support or medical support or both for purposes of establishing, modifying, or enforcing orders and means spousal support for purposes of enforcing an order.

441—95.2(252B) Child support eligibility and services.

95.2(1) *Public assistance cases.* Child support services will provide paternity establishment and support establishment, modification and enforcement services as appropriate, under federal and state laws and rules for children and families referred to child support services who have applied for or are receiving public assistance. Referrals under this subrule may be made by the family investment program (FIP), the Medicaid program, the foster care program, or agencies of other states providing child support services under Title IV-D of the Social Security Act as amended to August 1, 2024, for recipients of public assistance.

95.2(2) *Nonpublic assistance cases.* The same services provided by child support services for public assistance cases will also be made available to any person not otherwise eligible for public assistance. A person who is not on public assistance requesting services under this chapter will complete and submit to child support services a form prescribed by the department, or an electronic version of such application, for each parent from whom the person is seeking support. The person requesting services has the option to seek support from one or both of a child’s parents. Child support services will not require an application from the following:

- a. Persons not receiving public assistance for whom an agency of another state providing Title IV-D child support services has requested services.
- b. Persons for whom a foreign country as defined in Iowa Code chapter 252K has requested services.
- c. Persons who are eligible for continued services upon termination of assistance under the family investment program or Medicaid.

95.2(3) *Services available.* Except as provided by separate rule, child support services will provide the same services to persons receiving public assistance and persons not receiving public assistance. Child support services will determine the appropriate enforcement procedure to be used. The services are limited to the establishment of paternity, the establishment and enforcement of child support obligations and medical support obligations, and the enforcement of spousal support orders if the spouse is the custodial parent of a child for whom the department is enforcing a child support or medical support order.

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor will be credited as the required support obligation for the month in which they are collected. Any excess will be credited as delinquent payments, will be applied to the immediately preceding month, and then will be applied to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets will be credited according to rule 441—98.30(252B).

The date of collection will be determined as follows:

95.3(1) *Payments from income withholding.* Payments collected as the result of income withholding are considered collected in the month in which the income was withheld by the income provider. The date of collection will be the date on which the income was withheld.

a. For the purpose of reporting the date the income was withheld, the department will notify income providers of the requirement to report the date income was withheld and will provide a form prescribed by the department to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection will be used to determine support distributions. When the date of collection is not reported, support distributions will initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient will be issued.

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98 includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider. When the income provider does not document the months for which the sums are withheld, the amounts will initially be distributed based on the date of the check. If documentation is subsequently provided, any additional payments due the recipient will be issued.

95.3(2) *Payments from state or political subdivisions.* Payments collected from any state or political subdivision are considered collected in the same month the payments were actually received by that legal entity or the month withheld by an income provider, whichever is earlier. Any state or political subdivision transmitting payments to the department will be responsible for reporting the date the payments were collected. When the date of collection is not reported, support distributions will be initially issued based on the date of the state's or political subdivision's check. If proof of the date of collection is subsequently provided, any additional payments due the recipient will be issued.

95.3(3) *Additional payments.* An additional payment in the month that is received within five calendar days prior to the end of the month will be considered collected in the next month if:

- a.* CSC is notified or otherwise becomes aware that the payment is for the next month, and
- b.* Support for the current month is fully paid.

441—95.4(252B) Prepayment of support. Prepayment that is due to the obligee will be sent to the obligee upon receipt by the department and will be credited as payment of future months' support. Prepayment that is due the state will be distributed as if it were received in the month when due. Support is prepaid when amounts have been collected that fully satisfy the ongoing support obligation for the current month and all past months.

441—95.5(252B) Lump sum settlement.

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments will be negotiated in conjunction with child support services. Child support services will be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due will be made in accordance with 45 CFR Section 302.51 (as amended to August 1, 2024). The department may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt if the waiver will facilitate the collection of the support debt.

95.5(2) Child support services is responsible for the determination of the department's entitlement to all or any of the lump sum payment in a paternity action.

441—95.6(17A) Appeals. Nonreceipt of support collected by the department that is to be paid to the obligee may be appealed pursuant to the procedures provided in this rule if the obligee claims that the payment was credited to the incorrect month in accordance with subrules 95.3(1), 95.3(2), and 95.3(3).

95.6(1) *Contact.* Obligees who believe they have not received all or part of a support payment to which they are entitled in accordance with subrules 95.3(1), 95.3(2), and 95.3(3) must first contact a customer service representative and indicate that they have not received the payment.

- a.* An obligee may contact a customer service representative by telephone or in writing.
- b.* The department will acknowledge this contact in writing, indicating the months at issue.

95.6(2) *Written decision.* Within 30 days of the contact, the department will issue a written decision on all contested support distributions based on the date of collection.

95.6(3) *Initiation of appeal.* If the department denies some or all support payments that are claimed based on the date of collection, the obligee may initiate an administrative appeal.

a. To initiate an administrative appeal, the obligee will make a written request to child support services indicating an intent to appeal.

b. The time limit for initiating an administrative appeal is governed by 441—subrule 7.4(3). The time limit provided in 441—subrule 7.4(3) will start with the date that a written decision as required by subrule 95.6(2) is issued.

c. If no written decision has been issued after 30 days, the obligee may appeal the failure to issue a written decision. The appeal may be initiated at any time after 30 days and before a written decision is issued.

95.6(4) *Limitation of appeals.* Appeals will be limited to claims based on child support received by the department during the nine-month period before the month in which the appeal is initiated.

95.6(5) *Appeal process.* Except as specifically provided in this rule, administrative appeals are governed by 441—Chapter 7.

95.6(6) *Appeal issue.* The issue in appeals held pursuant to these procedures will be limited to the obligee's entitlement to a support payment that has been collected by the department.

441—95.7(252B) Termination of services.

95.7(1) *Case closure criteria.*

a. Child support services may terminate services when a case meets at least one of the following case closure criteria and child support services maintains supporting documentation for the case closure decision in the record:

(1) There is no ongoing support obligation and arrearages are under \$500 or unenforceable under state law.

(2) The noncustodial parent or alleged father is deceased and no further action, including a levy against the estate, can be taken.

(3) The noncustodial parent is living with the minor child as the primary caregiver, the custodial parent is deceased, and there is no assignment to the state of support or of arrearages that accrued under the support order.

(4) Child support services cannot establish paternity because:

1. The child is at least 18 years old and the statute of limitations bars an action to establish paternity;

2. A genetic test or a court or administrative process has excluded the alleged father and no other alleged father can be identified;

3. Child support services has determined that it would not be in the best interest of the child to establish paternity in a case that involves incest or rape or a case in which legal proceedings for adoption are pending; or

4. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by child support services with the recipient of services.

(5) The noncustodial parent's location is unknown and child support services has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR Section 303.3 (as amended to August 1, 2024), all of which have been unsuccessful, within the applicable time frame:

1. Over a three-year period when there is sufficient information to initiate an automated locate effort.

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort.

(6) Child support services has determined that, throughout the duration of the child's minority (or after the child has reached the age of majority), the noncustodial parent cannot pay support and shows no evidence of support potential because the parent has been institutionalized in a psychiatric facility, is

incarcerated, or has a medically verified total and permanent disability. Child support services must also determine that the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

(7) The noncustodial parent's sole income is from supplemental security income (SSI) payments.

(8) The noncustodial parent is a citizen of and lives in a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets and there is no federal or state treaty or reciprocity with the country.

(9) In a case involving child support services to a person who is not a recipient of public assistance, child support services has provided location-only services.

(10) Child support services has received a written or verbal request from the recipient of services to close the case and there is no assignment to the state of support or of arrearages that accrued under the support order.

(11) In a case involving child support services to a recipient of public assistance, there has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.3(6) through 41.6(10) and 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(12) In a case involving child support services to a person who is not a recipient of public assistance or who is a recipient of public assistance receiving Medicaid only, child support services has received information that the address in child support services' record is no longer current and child support services is unable to contact or otherwise locate the recipient within 60 days following receipt of this information despite a good-faith effort to contact the recipient through at least two different methods.

(13) In a case involving child support services to a person who is not a recipient of public assistance or who is a recipient of public assistance receiving Medicaid only, the recipient of services has failed to cooperate with child support services, which documented the circumstances of the noncooperation, and an action by the recipient of services is essential for the next step in providing services. More information is contained in rule 441—95.11(252B).

(14) Child support services documents failure by the initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), has notified child support services that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), has notified child support services that its intergovernmental services are no longer needed.

(17) Another assistance program, including IV-A, IV-E, SNAP, and Medicaid, has referred to child support services a case for which it is inappropriate to establish, enforce, or continue to enforce a child support order and the custodial or noncustodial parent has not applied for child support services.

(18) The case meets any other basis for case closure based upon federal law.

b. Child support services may terminate services when no support or arrearages that accrued under the support order are assigned to the state and the recipient of services requested child support services to close the case to allow the tribal IV-D agency to start providing services under that program.

c. Child support services will close a case and maintain supporting documentation for the case closure decision when the following criteria have been met:

(1) Child support services is notified that the child is eligible for health care services from the Indian Health Service (IHS); and

1. The IV-D case was opened because of a Medicaid referral based solely upon health care services, including the Purchased/Referred Care Program, provided through an Indian health program as defined in 25 U.S.C. Section 1603(12) (as amended to August 1, 2024); and

2. The recipient of services requests that child support services close the case.

(2) Child support services receives instructions for case closure from an initiating agency as defined under 45 CFR Section 301.1 (as amended to August 1, 2024). Within ten working days, child support services will stop the income withholding order or notice and close the intergovernmental IV-D case.

95.7(2) Case closure notifications. In cases meeting one of the criteria of subrule 95.7(1), except subparagraph 95.7(1)“a”(9), 95.7(1)“a”(10), or 95.7(1)“a”(11), child support services will send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), in writing 60 calendar days before case closure. The notice will be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR Section 301.1 (as amended to August 1, 2024), supplies information that could lead to the establishment of paternity or a support order or enforcement of an order, the case will be kept open.

b. If the case is to be closed because child support services was unable to contact the recipient of services, as provided in subparagraph 95.7(1)“a”(12), the case shall be kept open if contact is reestablished with the recipient of services before the effective date of the closure.

c. The recipient of services may request to have child support services reopen the case at a later date if there is a change in circumstances that could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application and paying any applicable fee.

d. If the recipient of services specifically authorizes consent for electronic notifications, child support services may elect to notify the recipient of services electronically of child support services’ intent to close the case. Child support services must maintain documentation of the recipient’s consent in the case record.

441—95.8(252B) Child support services attorney.

95.8(1) State’s representative. An assistant attorney general, assistant county attorney, or independent contract attorney employed by or under contract with child support services represents only the state of Iowa. The sole attorney-client relationship for the child support services attorney is between the attorney and the state of Iowa. A private attorney acting under Iowa Code section 252B.6A is not a child support services attorney and is not a party to the action.

95.8(2) Provision of services. The special role of the child support services attorney is limited by the attorney-client relationship between the attorney and the state of Iowa. The provision of legal services by the child support services attorney is limited as follows:

a. The child support services attorney will not represent any person or entity other than the state of Iowa in the course of the attorney’s employment by or contractual relationship with child support services.

b. Child support services will issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support services and to all parties in a review and adjustment proceeding.

95.8(3) Communication concerning case circumstances.

a. Child support services will provide case status information upon written request by any recipient of child support enforcement services or any party under the review and adjustment procedure unless otherwise prohibited by state or federal statute or rules pertaining to confidentiality.

b. All communications with other parties will be directed to those parties personally unless a licensed attorney has entered an appearance or notified child support services in writing that the attorney is representing a party. If any party is represented by counsel, all communications will be directed to counsel for that party.

c. When a party is receiving public assistance, child support services will refer any suspected fraud or questionable FIP expenditures to the appropriate governmental agencies.

441—95.9(252B) Effective date of support. For all original orders established by child support services, the effective date of the support obligation under the orders will be the twentieth day following the date the order is prepared by child support services unless otherwise specified.

441—95.10(252B) Continued services available to canceled FIP or Medicaid recipients. Support services will automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services will not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—Chapter 41 or 75, as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services included in rule 441—95.7(252B) applies to the case.

Support services will be provided to eligible persons without application or application fee, subject to applicable enforcement fees.

95.10(1) Notice of services. When a family is no longer eligible for public assistance, the department will forward a form prescribed by the department to the family's last-known address within five working days of the notification of ineligibility to inform the family of the following:

- a. Unless the family notifies the department to the contrary, services will continue.
- b. The effect of continuing to receive support services, including the available services and the state's policies on fees, cost recovery, and distribution.

95.10(2) Termination of services.

a. A person may request that the department terminate support services at any time by completing and returning a form prescribed by the department, or in any other form of written communication, to child support services.

b. Continued support services may be terminated at any time for any of the reasons included in rule 441—95.7(252B).

95.10(3) Reapplication for services. A person whose services were denied or terminated may reapply for services by completing the application process described in subrule 95.2(2).

441—95.11(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with child support services in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following apply:

95.11(1) Cooperation defined. The person will cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in 441—Chapter 41 or 75 for refusal to cooperate is established.

a. The person will cooperate in the following areas:

- (1) Identifying and locating the parent of the child for whom assistance or Medicaid is claimed.
- (2) Establishing the paternity of a child born out of wedlock for whom assistance or Medicaid is claimed.
- (3) Obtaining support payments for the person and the child for whom assistance is claimed and obtaining medical support for the person and child for whom Medicaid is claimed.

b. Cooperation includes the following actions by the person if the action is requested by child support services:

- (1) Providing the name of the noncustodial parent and additional necessary information.
- (2) Appearing at child support services to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the person that is relevant to achieving the objectives of the child support program.
- (3) Appearing at judicial or other hearings, proceedings, or interviews.
- (4) Providing information or attesting to the lack of information under penalty of perjury.
- (5) If the paternity of the child has not been legally established, submitting to blood or genetic tests pursuant to a judicial or administrative order. The person may be requested to sign a voluntary affidavit of paternity after being given notice of the rights and consequences of signing such an affidavit as required by Iowa Code section 252A.3A. However, the person will not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

c. The person will cooperate with child support services to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may

be necessary to secure or enforce a support obligation, establish paternity, or secure medical support. A person's cooperation with child support services includes completing and signing a form prescribed by the department, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.11(2) *Failure to cooperate.* Child support services will make the determination of whether a person has cooperated. Child support services will promptly send notice of a determination of noncooperation to the person on a form prescribed by the department and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs will take appropriate sanctioning actions as provided in statute and rules.

95.11(3) *Good cause or other exception.*

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—Chapter 41.

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—Chapter 75.

441—95.12(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in 441—Chapters 41 and 75 apply. The appropriate staff in the FIP and Medicaid programs are designees of child support services to determine noncooperation and issue notices of that determination until the referral to child support services is completed.

441—95.13(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases.

95.13(1) *Requirements.* The person receiving nonpublic assistance support services will cooperate with child support services by meeting all the requirements of rule 441—95.11(252B), except that the person may not claim good cause or other exception for not cooperating.

95.13(2) *Failure to cooperate.* Child support services will make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation will result in termination of support services. An applicant or recipient may also request termination of services under subparagraph 95.7(1)“a”(10).

441—95.14(252B) Charging pass-through fees. Pass-through fees are fees or costs incurred by the department for service of process, genetic testing, and court costs if the entity providing the service charges a fee for services. Child support services may charge pass-through fees to persons who receive continued services according to 441—95.10(252B) and to other persons receiving nonassistance services, except no fees may be charged to an obligee residing in a foreign country or to a foreign country if child support services is providing services under paragraph 95.2(2)“b.”

441—95.15(252B) Reimbursing assistance with collections of assigned support. For an obligee and child who currently receive assistance under FIP, the full amount of any assigned support collection that the department receives will be distributed according to rule 441—95.10(252B) and retained by the department to reimburse the FIP assistance.

441—95.16(252B) Child support account. Child support services will maintain a child support account for each client. The account, representing money due the department, will cover all periods of time public assistance has been paid, commencing with the date of the assignment. Child support services will not maintain an interest-bearing account.

441—95.17(252B) Emancipation verification. Child support services may verify whether a child will emancipate according to the provisions established in the court order prior to the child's eighteenth birthday.

95.17(1) *Verification process.* Child support services will send a form prescribed by the department to the obligor and obligee on a case if child support services has an address.

95.17(2) *Return information.* The obligor and obligee will be asked to complete and return the form to child support services. Child support services will use the information provided by the obligor or obligee to determine if the status of the child indicates that any previously ordered adjustments related to the obligation and a child's emancipation are necessary on the case.

95.17(3) *Failure to return information.* If the obligor and obligee fail to return the questionnaire, child support services will apply the earliest emancipation date established in the support order to the case and implement changes in support amounts required in the support order.

95.17(4) *Conflicting information returned.* If conflicting information is returned or made known to child support services, child support services will have the right to verify the child's status through sources other than the obligor and obligee.

441—95.18(17A) Right of appeal.

95.18(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 will be limited to the following issues:

a. A person is not entitled to a support payment in full or in part because of the date of collection, as provided under rule 441—95.6(17A), or a dispute based on the date of collection has not been acted on in a timely manner.

b. A termination in services has occurred as provided in rule 441—95.7(252B).

95.18(2) A hearing will not be granted under 441—Chapter 7 when an appellant has a complaint about child support services collections actions other than those described in this rule. This includes the collection of an annual fee for child support services as specified in Iowa Code chapter 252B.

441—95.19(17A) Appeal record. The record in an administrative appeal under this rule will include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal and the verbatim record of the hearing.

These rules are intended to implement Iowa Code chapters 252B, 252C, 252D and 17A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8962C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to information and records

The Department of Health and Human Services hereby rescinds Chapter 96, "Information and Records," 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 252B.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 42 U.S.C. Section 659.

Purpose and Summary

This rulemaking is in response to Executive Order 10. These rules allow Child Support Services to request or administratively subpoena information from third parties and provide appeal procedures before imposing the statutory fine.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8560C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 96 and adopt the following **new** chapter in lieu thereof:

CHAPTER 96
INFORMATION AND RECORDS

441—96.1(252B) Access to information and records from other sources. In addition to statutes and other rules, the following entities shall provide information and records based on the following methods of requesting the information and within the following time frame:

96.1(1) Oral or written request. All persons and entities, including all for-profit, nonprofit, and governmental employers, must, within 15 days of receipt of a request, provide child support services or a child support agency of another state information on the employment, compensation, and benefits of any individual employed by the person or entity as an employee or contractor if child support services or the agency is providing services in relation to that individual. The request may be made orally, by letter, by form or by other written request listed in subrule 96.1(3); however, the fine and procedures described in rules 441—96.2(252B) through 441—96.6(252B) only apply if the request was by a written request listed in subrule 96.1(3).

96.1(2) Subpoena. All persons and entities shall comply with a child support services subpoena, issued by child support services, or an Administrative Subpoena, OMB Control No. 0970-0152, or its successor, issued by child support services or a child support agency of another state, as provided in Iowa Code section 252B.9. Child support services or a child support agency of another state may issue a subpoena regarding more than one individual. The person or entity must provide the information and records as directed in a form prescribed by the department or the Administrative Subpoena.

96.1(3) Time to reply to a written request. A person or entity who is sent any of the following must provide the information and records requested in the manner requested to child support services or child support agency of another state, as appropriate, within 15 days of the date of the request:

- a.* Any form prescribed by the department that requests information described in subrule 96.1(1).
- b.* A child support services subpoena, or an Administrative Subpoena, OMB Control No. 0970-0152, or its successor, as provided in subrule 96.1(2), from child support services or from a child support agency of another state.
- c.* A written request or form as provided in subrule 96.1(1) from a child support agency of another state.

441—96.2(252B) Refusal to comply with written request or subpoena.

96.2(1) A parent or putative father in a support or paternity proceeding in which child support services or a child support agency of another state is providing services who fails to comply with a request or subpoena as provided in subrule 96.1(3) shall be subject to license sanctioning as provided in 441—Chapter 98.

96.2(2) An entity or a person who is not a parent or putative father as described in subrule 96.2(1) may refuse to comply under the circumstances provided in rule 441—96.3(252B).

441—96.3(252B) Procedure for refusal.

96.3(1) No information. A person or entity who does not have any information or records requested or subpoenaed must respond as follows:

- a.* If the request or subpoena is a form from child support services under paragraph 96.1(3) “a” or “b,” the person or entity must sign and return to child support services the appropriate portion of the form indicating the lack of information or records.
- b.* If the request or subpoena is one listed in paragraph 96.1(3) “c,” the person or entity must send the child support agency of the other state a signed and dated written statement indicating the lack of information or records.

96.3(2) Good cause. The person or entity may claim good cause for refusing to comply as required in Iowa Code section 252B.9.

a. To claim good cause, the person or entity must file a request for a conference by mailing or submitting a written request to child support services that issued the request or subpoena within 15 days of the issuance of the request or subpoena.

b. If a child support agency of another state issued the request or subpoena, the person or entity may request a conference with child support services or with the child support agency of the other state. The person or entity shall request a conference with child support services by mailing or submitting a written request and a copy of the subpoena or document received from the child support agency of the other state to child support services. The person or entity must request a conference with the child support agency of the other state by following the requirements of that state’s laws and regulations.

441—96.4(252B) Conference conducted.

96.4(1) Request or subpoena issued by child support services. If child support services issued the request or subpoena, child support services will notify the person or entity and conduct a conference within ten days of receipt of the request for a conference. At the request of either child support services or the person or entity, the conference may be rescheduled one time. The conference may be conducted in person or by telephone.

96.4(2) Request or subpoena issued by other state. If a conference with child support services is requested based upon a request or subpoena issued by a child support agency of another state, the

department will request that agency send an interstate referral and appropriate information to child support services or central registry.

a. Child support services will notify the person or entity and conduct a conference within ten days of opening a case based upon an interstate referral and appropriate information. If child support services does not receive an interstate referral and appropriate information within 60 days of the department's request, the request or subpoena received under subrule 96.1(3) shall be void, and child support services will notify the person or entity that the request or subpoena is void.

b. The voiding of a request or subpoena under this subrule does not prevent the issuance of subsequent requests or subpoenas.

96.4(3) *Submission of information.* On or before the conference date, the person or entity must submit information to child support services that demonstrates a mistake in the identity of the person or entity, or a mistake in the identity of the individual who is the subject of the request or subpoena, or that demonstrates a specific prohibition under federal law to release the information or records. Child support services may extend the time to conduct the conference an additional ten days to allow time for the person or entity to provide the information.

96.4(4) *Notice of findings.* Following the conference, child support services will issue a notice pursuant to Iowa Code section 252B.9.

441—96.5(252B) Fine assessed.

96.5(1) *Conditions resulting in fine.* Child support services will assess a fine of \$100 per refusal and notify the person or entity of the fine if any one of the following applies:

a. Ten days have passed since child support services issued a notice under subrule 96.4(4) stating child support services determined there is no good cause to refuse to comply with the request or subpoena, and the information or records have not been received.

b. Fifteen days have passed since child support services issued the request or subpoena and the information or records have not been received, nor has the person or entity filed a request for a conference.

c. Fifteen days have passed since a child support agency of another state has issued the request or subpoena, and that agency sends an interstate referral to child support services requesting enforcement of the request or subpoena because the information or records were not received.

96.5(2) *Definition of refusal.* One refusal is a refusal to supply information or records based on one written request, or one subpoena regarding one or more individuals.

96.5(3) *Notification of fine.* If child support services assesses a fine, child support services will notify the person or entity by regular mail with proof of service completed according to Rule of Civil Procedure 1.442. The person or entity shall have 30 days from the date of the notice to pay the fine.

441—96.6(252B) Objection to fine or failure to pay.

96.6(1) *Objection filed.* The person or entity may object to the imposition of the fine by filing an application for judicial review in district court within 30 days of issuance of the notice of the fine and sending a copy of the application to child support services.

96.6(2) *Petition to compel.* If the person or entity fails to pay the fine imposed and does not file an application for judicial review within the time provided in this rule, child support services may file a petition to compel the person or entity to comply with the request, subpoena or fine in district court in the county in which the underlying support order or pending matter is filed. If there is no support order or pending matter filed in district court in Iowa, then child support services may file the petition in the county in which the person resides or the person or entity has its principal place of business.

96.6(3) *Certification to court.* If the person, entity, or child support services files an action in district court, child support services will certify a copy of the following, as appropriate, to the court prior to a hearing:

- a.* Proof of service of the request or subpoena.
- b.* Proof of service of the notice of assessment of a fine.
- c.* Written decision following a conference.

96.6(4) *Failure to comply with court order.* Failure of the person or entity to comply with an order of the district court will be subject to enforcement through contempt of court.

441—96.7(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 17A and section 252B.9.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8963C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to collection services center

The Department of Health and Human Services hereby rescinds Chapter 97, “Collection Services Center,” 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 252B.13A and 252B.16.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 252B.13A, 252B.17 and 252D.17 and 42 U.S.C. Sections 654.27(a) and 654(b).

Purpose and Summary

This rulemaking is in response to Executive Order 10. This chapter describes the process of transferring support cases or information from the clerks of district court to the collection services center and the policies and procedures used to receive, monitor, and distribute support payments.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8562C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 97 and adopt the following **new** chapter in lieu thereof:

CHAPTER 97
COLLECTION SERVICES CENTER

441—97.1(252B) Definitions. The definitions of terms used in this chapter will follow those terms defined in rule 441—95.1(252B) with the exception or addition of the following:

“Collection services center” means the public agency designated to receive, record, monitor, and disburse support payments as defined in Iowa Code section 598.1, 252B.15 or 252D.16, in accordance with Iowa Code sections 252B.13A and 252B.14.

“Correlated non-IV-D case” means a non-IV-D case where income withholding information must be maintained by child support services in order to properly process an income withholding payment because the obligor has both a non-IV-D and a current or former IV-D case.

“Electronic funds transmission” means, for purposes of this chapter, the use of a NACHA-approved child support format for the electronic transmission of funds to the collection services center.

“Employee” means the same as defined in Iowa Code section 252G.1.

“Former IV-D case” means a case that previously received services from child support services under rule 441—95.2(252B) but currently receives only payment processing services from the collection services center.

“Insufficient funds payment” means a support payment by check or other financial instrument that is dishonored, not paid, or the funding of the payment is determined to be inadequate.

“IV-D case” means a case that receives services from child support services under rule 441—95.2(252B), including payment processing services from the collection services center.

“NACHA-approved child support format” means a child support payment transmission format approved by the National Automated Clearing House Association (NACHA).

“Non-IV-D case” means a support order that never received services from child support services under rule 441—95.2(252B) but that receives payment processing services from the collection services center for income withholding payments.

“Obligee” means the guardian, custodial parent, person, or entity entitled to receive support payments.

“Obligor” means a parent, relative, or any other person declared to be legally liable for the support of a child or the custodial parent or guardian of the child.

“Payor of income” means the same as defined in Iowa Code section 252D.16.

“Support payment” means the same as “support” or “support payments” as defined in Iowa Code section 252D.16.

“*Website*” means the website operated by the department for the purpose of allowing a payor of income to make a support payment through electronic transmission to the collection services center.

441—97.2(252B) Transfer of records and payments. For non-IV-D cases, the clerk of court shall provide core case information to child support services upon the filing of a new income withholding order or upon the request of child support services. “Core case information” means information listed in paragraphs 97.2(1) “a” and “b” and subrule 97.2(2). For IV-D and correlated non-IV-D cases, the clerk of court shall provide detailed case information to child support services upon request. After the establishment of a case, child support services will send notices of transfer to obligors and obligees based upon case type.

97.2(1) *Transfer of information on non-IV-D and correlated non-IV-D cases.*

a. In non-IV-D cases, child support services will request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

- (1) The obligor’s name and address.
- (2) The obligee’s name and address.
- (3) The court order numbers.

b. In correlated non-IV-D cases, child support services will request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

- (1) The obligor’s name and address.
- (2) The obligee’s name and address.
- (3) The court order numbers.
- (4) The income withholding order.

c. The clerk of the district court must provide case information to child support services on a regular basis when an income withholding order is filed with a clerk of court or when child support services requests the information in order to process a payment.

d. Child support services will automatically create cases for payment processing based upon the information received from the clerks of court.

97.2(2) *Transfer of information on IV-D cases.* In IV-D cases, the clerk of the district court shall provide child support services with the following information if the information has been provided to the clerk upon request of child support services:

a. The obligee’s name, date of birth, last-known mailing address, the social security number if known and, if different in whole or part, the names of the persons to whom the obligation of support is owed by the obligor.

b. The name, birth date, social security number, and last-known mailing address of the obligor.

c. A copy of all support orders that establish or modify a support amount.

d. The names, social security numbers, and dates of birth of any minor dependents for whom support is ordered, if available.

e. A record of any support payments received by the clerk of district court prior to the transfer of case information and any payments received by the collection services center and the date of transfer to the collection services center.

f. A record of any determination of controlling order under the Uniform Interstate Family Support Act.

441—97.3(252B) Support payment records. Each IV-D, former IV-D and non-IV-D case type shall have an official payment record.

97.3(1) *Official records for cases.* The official payment records for each case type are maintained by a designated entity.

a. The collection services center will establish, maintain and certify the official support payment records for IV-D or former IV-D cases.

b. The clerk of the district court shall establish, maintain and certify the official support payment records for non-IV-D and correlated non-IV-D cases. The collection services center will establish and

maintain records for receipt and disbursement of income withholding payments for these cases but will not certify these records as the complete payment record.

97.3(2) *Informal conference for payment records.* Child support services will provide an informal conference or desk review regarding the contents of any support payment record to the obligor or obligee upon request.

a. In IV-D or former IV-D cases, the conference shall be available to review the payment record and to answer questions of the obligee or obligor regarding the accuracy of the record.

b. In non-IV-D and correlated non-IV-D cases, the conference shall be available to review the accuracy of the contents of any record of income withholding payments.

97.3(3) *Certified payment records.* Child support services will provide certified copies of the official support payment records as described in paragraph 97.3(1)“a” in accordance with Iowa Code section 252B.9.

441—97.4(252B) Method of payment. Payments will be accepted in specific forms from obligors and payors of income.

97.4(1) *Form of payment.* Except as otherwise provided in this rule and in rule 441—97.5(252D), support payments may be paid in the form of cash, check, bank draft, money order, preauthorized withdrawal of funds, or other financial instrument, and sent by mail to the collection services center or by electronic transmission of funds.

97.4(2) *Treatment of insufficient funds payments.* Child support services will have a process in place to handle insufficient funds payments.

a. An obligor submitting an insufficient funds support payment to the collection services center will be required to submit payments by cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center.

b. A payor of income submitting an insufficient funds support payment to the collection services center is required to submit payments through electronic funds transmission, cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center.

c. Insufficient funds payments will not be credited to the collection services center account for the obligor or will be removed from the account if credited before sufficiency was verified. Insufficient funds support payments will be subject to additional collection by the collection services center for the dishonored amount.

d. The collection services center may not process additional payments other than cash, bank drafts or money orders from an obligor or payor of income who has previously submitted insufficient funds payments without first verifying the payment. The collection services center will have a process in place to allow the obligor or the payor of income the opportunity to replace any additional moneys submitted for payment of support before processing in order to avoid additional insufficient funds entries into the official payment records on the affected cases.

97.4(3) *Distribution of payment.* Nonincome withholding support payments received by the collection services center in IV-D, former IV-D, non-IV-D, or correlated non-IV-D cases that are not directed to a specific account or support obligation will first be applied proportionately to the current support obligation on all cases for the obligor and, secondly, to the support arrearages owed by the obligor.

441—97.5(252D) Electronic transmission of payments. Payors of income must electronically transmit to the collection services center the amounts withheld under an income withholding order.

97.5(1) *Thresholds for electronic funds transmission.* A payor of income must transmit payment through electronic funds transmission if either of the following applies:

a. The payor of income employs 100 or more employees and uses an agent for payroll processing.

b. The payor of income employs 200 or more employees.

97.5(2) *Use of the website.* Unless paragraph 97.4(2)“b” applies, a payor of income required to use electronic funds transmission under subrule 97.5(1) may elect to submit payments electronically by

using the website if the payor of income determines that using electronic funds transmission would cause undue hardship.

97.5(3) *Implementing electronic funds transmission.* A payor of income implementing electronic funds transmission shall complete all the following in advance of transmitting payments electronically:

- a. Contact child support services to obtain file layout and case reconciliation information.
- b. Provide to the collection services center:
 - (1) The contact information for the person responsible for electronic funds transmission for the payor of income or the payor of income's agent for payroll processing;
 - (2) The contact information for the person responsible for payroll accounts for the payor of income or the payor of income's agent for payroll processing;
 - (3) The name and address of the authorized financial institution from which the payment will be withheld; and
 - (4) A sample file layout in a NACHA-approved child support format and, if necessary, a test file in a NACHA-approved child support format.
- c. If needed upon review by the collection services center:
 - (1) Make corrections to the file layout to meet a NACHA-approved child support format, and
 - (2) Provide a corrected copy to the collection services center for review.
- d. Upon approval of the file layout by the collection services center, provide an implementation date before the first submission of payment through electronic funds transmission.

97.5(4) *Maintaining information and file format after implementation.* A payor of income that has implemented electronic funds transmission shall:

- a. Transmit both payment amounts and detailed information records in accordance with a NACHA-approved child support format.
- b. Advise the collection services center of a payment error within two business days.
- c. Provide the collection services center ten working days' advance notice when changing between NACHA-approved child support formats.
- d. Correct case number or file problems identified by the collection services center before sending any additional files.

97.5(5) *Exemption from electronic transmission.* To avoid undue hardship, a payor of income that has fewer than 200 employees or a payor of income that has fewer than 100 employees and uses an agent for payroll processing is exempt from using electronic transmission unless subrule 97.4(2) applies.

441—97.6(252B) Authorization of payment. The collection services center must authorize the generation of payments for support paid. The collection services center will issue payments as follows:

97.6(1) *Submittal of information to department of administrative services.* In order to disburse payments to the obligee within two working days, the collection services center will submit information daily to the department of administrative services to issue a warrant or electronic file transfer (EFT) payment to the obligee.

97.6(2) *Release of funds.* The following workday, an electronic transfer of funds will be sent to the designated account of the obligee or an alternate account to be accessed by the obligee through an electronic access card, or if subrule 97.6(5) applies, a state warrant may be sent by regular mail to the last-known address of the obligee.

97.6(3) *Electronic transfer.* Obligees who want electronic transfer of support payments to a designated account shall complete a form prescribed by the department and submit it to the collection services center. Unless subrule 97.6(5) applies, any obligee not using automatic deposit to a designated account will be issued an electronic access card for receipt of support payments.

97.6(4) *Walk-ins.* Support payments will not be hand-delivered to the obligee on a walk-in basis.

97.6(5) *Warrants.* The collection services center may authorize generation of a warrant if any one of the following conditions applies:

- a. Generation of a warrant is necessary to meet federal requirements to disburse a payment to an obligee within two working days when electronic transfer is not feasible.

b. The obligee has not requested automatic deposit to a designated account of the obligee, and payment is from a source that is nonrecurring or is not expected to continue in a 12-month period.

c. The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing on a form prescribed by the department that one of the exemptions listed in this paragraph applies. To claim an exemption, the obligee must return the form prescribed by the department to the collection services center within ten days of the date the form was issued. An exemption granted under this paragraph is subject to periodic review by the collection services center. The exemptions available under this paragraph are:

- (1) A physical disability imposes a hardship in accessing an electronically transferred payment.
- (2) A mental disability imposes a hardship in accessing an electronically transferred payment.
- (3) A language barrier imposes a hardship in accessing an electronically transferred payment.
- (4) A literacy barrier imposes a hardship in accessing an electronically transferred payment.
- (5) The obligee's home and work addresses are more than 30 miles from an automated teller machine and more than 30 miles from a financial institution where the account funds can be accessed.

d. The representative payee, court appointee, or trustee notifies the collection services center or unit in writing that one of the following applies:

- (1) The obligee is under a court-ordered guardianship or conservatorship.
- (2) The obligee is involved in other legal proceedings, including bankruptcy, which require payments to be sent to a trustee or other representative payee.

441—97.7(252B) Processing misdirected payments. If the collection services center receives a payment for which a corresponding obligee cannot be identified, the collection services center will contact the person or entity that directed the payment to obtain additional information. Payments inappropriately directed to the collection services center will be returned to the person or entity sending the payment.

441—97.8(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 17A and sections 252B.13A through 252B.17 and 252D.17.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8964C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to support enforcement services

The Department of Health and Human Services hereby rescinds Chapter 98, "Support Enforcement Services," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 252B, 252D, 252E, 252I and 252J.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 96.3, 598.1 and 598.21B; 42 U.S.C. Sections 666 and 652; and 45 CFR Sections 302 and 303.

Purpose and Summary

This rulemaking is in response to Executive Order 10. Child Support Services is responsible to provide child support enforcement services. This chapter expands on the federal laws and the Iowa Code of each enforcement action and provides additional procedures for each section. The rules also provide a procedure for referral of delinquent support to collection contractors and provide criteria to exempt cases from the procedure.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8564C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

No one attended the public hearings. No public comments were received. One change from the Notice has been made to update an obsolete Iowa Code reference.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 98 and adopt the following **new** chapter in lieu thereof:

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

441—98.1(252E) Definitions.

“*Delinquent support*” means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support will also include payments for parental liabilities not received as specified pursuant to 441—Chapter 156.

“Federal nontax payment” means an amount payable by the federal government that is subject to administrative offset for support under the federal Debt Collection Improvement Act, PL 104-134 (April 26, 1996).

“Medical support” means the same as defined in Iowa Code section 252E.1.

“Mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

“Obligee” means the same as defined in Iowa Code section 252E.1.

“Obligor” means the same as defined in Iowa Code section 252E.1.

“Offsets” means a federal income tax refund or federal nontax payment as described in rule 441—98.30(252B).

“Setoffs” means a state income tax refund, rebate or payment owed to a person by a state agency as described in the process found at 701—Chapter 26 and in rules 441—98.28(252B) and 441—98.29(252B).

441—98.2(252E) Medical support health benefit plan information.

98.2(1) *Information from an employer.* Child support services will gather information concerning a health benefit plan an employer may offer an obligor as follows:

a. Child support services may send a form prescribed by the department whenever a potential employer is identified.

b. Child support services will secure information about health care coverage from a known employer on a form prescribed by the department when a form prescribed by the department or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

98.2(2) *Information from an obligor.* Child support services may secure medical support information from an obligor on a form prescribed by the department.

98.2(3) *Disposition of information.* Child support services will provide the information:

a. To the Medicaid agency and to the obligee, when requested, when the dependent is a recipient of Medicaid.

b. To the obligee, when requested, when the dependent is not a recipient of Medicaid.

441—98.3(252E) Medical support insurer authorization. When the obligor does not provide to the insurer the signed documents necessary to enroll and process claims for the dependent for whom support is ordered, the insurer is authorized to accept the signature of the obligee or the department’s designee on necessary forms. For purposes of this chapter, the third-party liability unit is the department’s designee when support is assigned.

441—98.4(252E) Medical support enforcement.

98.4(1) *Medical support enforcement.* Medical support may be enforced pursuant to Iowa Code section 252E.12.

98.4(2) *Health care coverage.*

a. If an obligor was ordered to provide health care coverage under an order but did not comply with the order, child support services may implement the order by forwarding to the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or on a form prescribed by the department.

b. If child support services implements an order under this subrule, child support services will send a notice to the obligor at the last-known address of the obligor by regular mail. The notice will contain the following information:

(1) A statement of the obligor’s right to an informal conference.

(2) The process to request an informal conference.

(3) The obligor’s right to file a motion to quash with the district court.

98.4(3) *Termination of employment.* When child support services receives information indicating the obligor’s employment has terminated, child support services will secure the status of the health benefit plan by sending a form prescribed by the department to the employer.

If no response is received within 30 days of sending a form prescribed by the department, child support services will send a second request on a form prescribed by the department to the employer.

441—98.5(252E) Contesting enforcement of medical support. The obligor may contest the enforcement of medical support by means of an informal conference with child support services, or by filing a motion to quash.

98.5(1) *Motion to quash.* Procedures for filing a motion to quash the order are specified under Iowa Code sections 252D.31 and 252E.6A.

98.5(2) *Informal conference.*

a. The obligor will be entitled to only one informal conference for each new employer to which child support services has forwarded a form prescribed by the department or an order under Iowa Code section 252E.4 to enforce medical support.

b. Procedures for the informal conference are as follows:

(1) Child support services will inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with child support services if the obligor believes the enforcement was entered in error.

(3) The obligor shall request an informal conference in writing, within 15 calendar days from the date of the notice of the right to an informal conference, or at any time if a mistake of fact regarding the identity of the obligor is believed to have been made.

(4) Child support services will schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) Child support services may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time will be scheduled by child support services.

(7) Child support services will issue a written decision to the obligor within ten calendar days of the conference.

c. The issues to be reviewed at the conference shall be as follows:

(1) Whether the identity of the obligor is in error.

(2) Whether the obligor is already providing health care coverage for the dependent.

(3) Whether the availability of dependent health care coverage is in error.

(4) Whether the obligor was ordered to provide health care coverage under the support order.

d. The results in an informal conference will in no way affect the right of the obligor to file a motion to quash the order under Iowa Code section 252E.6A.

441—98.6(252D) Income withholding of delinquent support. When there is a delinquency in an amount equal to the support payable for one month as specified by an order for support or reimbursement order and child support services is providing services under 441—Chapter 5, child support services will enter an order to withhold the obligor's income not exempt by state or federal law to require the income withheld to be paid to the collection services center to pay the support obligation. An income withholding order will also be entered to collect the unpaid balance of a judgment for the reimbursement of a support debt when a repayment schedule is not specified in the order establishing the judgment.

441—98.7(252D) Income withholding amounts. Child support services will determine the amount to be withheld by the employer or other income providers as follows:

98.7(1) *Current support obligation exists.* When a current support obligation exists, the amount withheld will be an amount equal to the current support obligation, and an additional amount equal to 20 percent of the current support obligation to be applied toward the liquidation of any delinquency.

98.7(2) *Current obligation ended.* When the current support obligation has ended or has been suspended, the income withholding order will remain in effect until any delinquency has been satisfied. The amount withheld will be equal to the amount of the most recent prior current support obligation that

is greater than zero. However, in the following circumstances, the amount withheld will be 20 percent of the amount owed for current support at the time the obligation ended or was suspended:

- a. There has been a change of court-ordered physical care from the obligee to the obligor.
- b. The obligee and obligor have reconciled and have obtained a modification ending the current support obligation.
- c. The current obligation is suspended through the suspension process.
- d. In a foster care case, the order for parental liability ended when the child left placement, or an order ending the liability has been entered and the child in foster care has returned to the home of a parent ordered to pay parental liability. In this situation, the amount withheld will be reduced to 20 percent of the current support amount when the obligation ended, but only for the parent with whom the child resides.

98.7(3) *No support ordered.* When there is no current child support ordered and the obligation is solely the result of a judgment that does not specify a repayment schedule, the withholding amount will be set at the amount for one person from the family investment program (FIP) schedule of basic needs.

98.7(4) *Lump-sum income source.* Notwithstanding subrules 98.7(1), 98.7(2), and 98.7(3), when the obligor is paid by a lump-sum income source, the withholding amount may include all current and delinquent support due through the current month. Lump-sum income includes income received in a sole payment or in payments that occur at two-month or greater intervals.

441—98.8(252D) Amendment of amount of withholding due to hardship.

98.8(1) *Request for amendment.* If subrule 98.7(2) or 98.7(3) applies, the obligor may request at any time an amendment of the amount withheld as payment toward the delinquency or reimbursement on the grounds of hardship. The obligor must submit the request in writing to child support services.

98.8(2) *Hardship criterion.* Hardship exists if the obligor's income is equal to or less than 200 percent of the poverty level for one person according to the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2) (as amended to August 1, 2024).

- a. If hardship is claimed by the obligor, child support services may verify income from:
 - (1) The employer or other income provider of the obligor.
 - (2) The obligor.
 - (3) The state employment security agency.
 - (4) Other records available in accordance with Iowa Code section 252B.9.
- b. If the hardship criterion is met, the amount withheld as payment toward the delinquency may be amended as follows:

- (1) The obligor's gross yearly income will be divided by 200 percent of the established yearly gross poverty level income for one person. That amount will be multiplied by .5. The resulting figure will be multiplied by the most recent prior current support obligation or the amount determined pursuant to subrule 98.7(3), as applicable, to determine the amended amount. Notwithstanding this calculation, the amended amount will not be less than \$15 per month.

- (2) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or the amended amount determined in subparagraph 98.8(2) "b"(1) is to be withheld.

98.8(3) *Hardship period.* If the hardship criterion in subrule 98.8(2) is met, child support services will grant the amended amount of withholding for a period of two years, subject to the provisions of subrule 98.8(6). However, if the obligor is receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits, the obligor is deemed to continue to meet the hardship criterion for the duration of those benefits.

98.8(4) *Denying requests.* A hardship request may be denied if:

- a. The criterion in subrule 98.8(2) is not met.
- b. The obligor has been granted an amended amount of withholding based on this rule within the last two years and that hardship period will not expire in less than 30 days.

c. The obligor's previous hardship period expired within the last six months and, within 30 days prior to the expiration date of the previous hardship period, the obligor did not submit the following to child support services:

- (1) A written request for hardship; or
- (2) Verification of the obligor's income, and child support services was not able to verify the obligor's income as described in paragraph 98.8(2) "a."

98.8(5) Notice requirements. Child support services will provide written notification to the obligor of the result of the hardship request.

a. When a hardship request is granted, the written notification will include the amended amount of withholding and the date the hardship period will expire.

b. When a hardship request is denied, the written notification will include the reason for denial.

98.8(6) Termination of hardship prior to expiration date. The hardship period will automatically end, regardless of expiration date, if any of the following occurs:

- a. A current support obligation is added to the support order.
- b. The current support obligation was previously suspended and is reinstated.
- c. The delinquency has been paid in full.
- d. The obligor was receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits at the time the hardship request was granted, and child support services has verified that the obligor is no longer receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits.

441—98.9(252D) Immediate income withholding. Immediate withholding of income pursuant to Iowa Code section 252D.8 is automatic without additional notice to the obligor unless:

98.9(1) Good cause exists. Good cause is found to exist by the court or child support services. For purposes of this rule, "good cause" is defined as the posting of a secured bond by the obligor sufficient to pay all current and future child support obligations, including any delinquency that may accrue.

98.9(2) Written agreement exists. A written agreement is reached between both parties that provides for an alternative arrangement for payment of child support subject to the following conditions:

a. Unless approved by child support services, written agreements between the obligee and obligor to waive immediate income withholding become void when child support is assigned to this state or to another state pursuant to a statute of that jurisdiction.

b. All payments pursuant to any written agreement will be paid as directed in Iowa Code sections 252B.14 and 598.22.

441—98.10(252D) Approval of request for immediate income withholding. When the obligee or other party to the proceeding requests immediate withholding, child support services will determine whether the request will be approved.

98.10(1) Basis for approval. Approval of a request for immediate income withholding by child support services may be based on:

a. Past payment record of the obligor that demonstrates an inconsistent compliance with the support order.

b. Whether the state of Iowa is providing public assistance.

98.10(2) Request denied. Child support services may not approve a request for immediate income withholding on cases where no public assistance has been expended and there is a prior written agreement between the obligee and obligor that has been approved by court order.

441—98.11(252D) Immediate income withholding amounts. The amount withheld will be the amount of the current support obligation as specified in the support order. If a judgment for accrued support is established in the support order, the amount withheld will be the amount due for current support and the periodic payment amount due for the accrued support as specified in the order. If no periodic payment for the accrued support is established in the support order, the amount withheld will be the amount due for current support plus 10 percent of the amount of the current obligation to be applied to the accrued support.

441—98.12(252D) Immediate income withholding amounts when current support has ended. When the child support obligation has ended, the amounts to be withheld will be in accordance with subrule 98.7(2).

441—98.13(252D,252E) Income withholding for medical support. An income withholding order or notice of income withholding may also include provisions for enforcement of medical support when medical support is included in the support order. The income withholding order or notice of income withholding may require implementation of dependent health care coverage pursuant to Iowa Code chapter 252E or the withholding of a dollar amount for medical support. Amounts withheld for medical support will be determined in the same manner as amounts withheld for child support.

441—98.14(252D,252E) Maximum amounts to be withheld for income withholding. An income withholding order or a notice issued by child support services will require that the employer or other income provider withhold no more than the maximum amounts allowed under the Federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b) (as amended to August 1, 2024).

98.14(1) The amount of income subject to withholding will be limited to 50 percent of the nonexempt disposable income of the obligor unless there is more than one support order for which the obligor is obligated and the criteria of 15 U.S.C. Section 1673(b) (as amended to August 1, 2024) are met, or the obligor agrees to a greater amount within these limits.

98.14(2) Disposable income means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts mandated by law to be withheld.

441—98.15(252D) Income withholding for multiple obligations. In the event that an obligor has more than one support obligation that is being enforced by child support services, child support services may enter an income withholding order to enforce each obligation. The amount specified to be withheld on the delinquency under the income withholding order or notice will be determined in accordance with rule 441—98.7(252D).

441—98.16(252D) Income withholding notice to employer and obligor. Child support services will send the obligor and the employer or other income provider a notice of income withholding as follows:

98.16(1) Notice to employer. Child support services may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If child support services is sending notice by regular mail, it will send a form prescribed by the department or a notice in the standard format prescribed by 42 U.S.C. Section 666(b)(6)(A) (as amended to August 1, 2024). If child support services is sending the notice by electronic means, it may include notice of more than one obligor's order and need only state once provisions that are applicable to all obligors, such as the information in paragraphs 98.16(1) "d," "f," "g," and "i." The statement of provisions applicable to all obligors may be sent by regular mail or electronic means. The notice of income withholding will contain information such as the following:

- a. The obligor's name and social security number.
- b. The amount of current support to withhold.
- c. The amount of support to withhold for payment of delinquent support, if any.
- d. The amount an income provider may deduct for costs of processing each support payment.
- e. The child support case number.
- f. The location to which payments are sent.
- g. The maximum amount that can be withheld for payment of support as specified in rule 441—98.14(252D,252E).
- h. The method to calculate net income.
- i. Responsibilities of the income provider as specified in Iowa Code section 252D.17.
- j. Responsibility, if any, of the income provider to enroll the obligor's dependent for coverage under a health benefit plan.

98.16(2) Notice to obligor. A form prescribed by the department will be sent to the last-known address of the obligor by regular mail. The notice will contain the following information:

- a. A statement of the obligor's right to an informal conference.
- b. The process to request an informal conference.
- c. The obligor's right to claim hardship criteria and the process for a claim.
- d. The obligor's right to file a motion to quash the income withholding order or notice with the district court.
- e. The information provided to the employer or other income provider, or a copy of the notice sent to the employer or other income provider.
- f. The amount of any delinquency.

98.16(3) Standard format. As provided in Iowa Code section 252D.17, an order or notice of an order for income withholding will be in a standard format and on a form prescribed by the department. Child support services will make a copy of the form available to the state court administrator and the Iowa state bar association.

441—98.17(252D) Contesting the income withholding. The obligor may contest the income withholding by means of an informal conference with child support services or by filing a motion to quash.

98.17(1) Motion to quash. Procedures for filing a motion to quash the order or the notice of income withholding are specified in Iowa Code chapter 252D.

98.17(2) Informal conference.

a. The obligor will be entitled to only one informal conference for each new or modified income withholding order or notice issued by child support services that specifies a new or modified total amount to withhold.

b. Procedures for the informal conference are as follows:

(1) Child support services will inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with child support services if the obligor believes the withholding is in error.

(3) The obligor will request an informal conference in writing.

(4) Child support services will schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) Child support services may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time will be scheduled by child support services.

(7) Child support services will issue a written decision to the obligor within ten calendar days of the conference.

(8) If child support services has not complied with rule 441—98.7(252D), it will then adjust the income withholding amount.

c. The issues to be reviewed at the conference will be as follows:

(1) For all income withholding orders or notices, whether:

1. The identity of the obligor is in error.

2. The amount of the current support obligation is in error.

(2) For orders or notices resulting from the existence of a delinquency, whether:

1. The amount of delinquent support is in error.

2. For income withholding orders or notices, whether the guidelines described at rule 441—98.7(252D) were followed.

(3) For immediate income withholding orders or notices, whether the criteria of rules 441—98.9(252D) and 441—98.10(252D) were appropriately applied.

d. The results of an informal conference will in no way affect the right of the obligor to file a motion to quash the income withholding order or notice with the court.

98.17(3) Income withholding issued from another state. Child support services will follow procedures for a motion to quash or a request for hardship or conduct an informal conference based on

an income withholding order or notice issued in another state only if child support services is providing services under 441—Chapter 95.

441—98.18(252D) Termination of income withholding. Child support services may, by ex parte order, terminate an income withholding order under the following conditions:

98.18(1) *Order entered in error.* Child support services will terminate an income withholding order upon determination that the order was entered in error as follows:

a. The person named as the obligor in the income withholding order is not the person required to provide support under the support order being enforced.

b. For orders resulting from the existence of a delinquency, the required minimum delinquency did not exist at the time the income withholding order was entered.

98.18(2) *No support due.* In cases for which services are being provided by child support services, child support services will terminate an income withholding order previously entered by child support services when the current support obligation has terminated and when the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order. In no case will payment of overdue support be the sole basis for termination of withholding.

98.18(3) *Other circumstances.* Child support services may revoke an income withholding order under other circumstances provided the conditions of Iowa Code chapter 252D are met.

441—98.19(252D) Modification of income withholding. Child support services may modify a previously issued income withholding order or notice according to the guidelines established under rule 441—98.7(252D) if it is determined that:

98.19(1) *Current support obligation changed.* There has been a change in the amount of the current support obligation.

98.19(2) *Amount in error.* The amount required to be withheld under the income withholding order or notice is in error as follows:

a. The amount required to be withheld as current support is not the amount specified in the order for support being enforced.

b. The guidelines established in rule 441—98.7(252D) were not followed.

98.19(3) *Past-due support paid.* Any past-due support debt has been paid in full. The withholding order or notice will be modified to require that only the current support obligation be withheld from the income of the obligor. Should a delinquency later accrue, the withholding order or notice may again be modified to secure an additional payment toward the delinquency. The amount of the arrears payment will be set at 20 percent of the current support amount.

98.19(4) *Income withholding and determination of controlling orders.* An obligation amount different from what child support services has been enforcing is established upon the determination of controlling order as allowed in Iowa Code section 252K.207. Upon the change to the new obligation amount, the amount withheld to be applied toward the liquidation of any delinquency will be 20 percent.

98.19(5) *Income withholding and review and adjustment of orders.* Child support services has conducted a review of the obligation pursuant to 441—Chapter 99. Child support services will modify the amount withheld to be applied toward the liquidation of any delinquency to 20 percent upon completion of the review and adjustment process.

98.19(6) *Implementation or termination of amended amount of withholding due to hardship.* Child support services has determined that the withholding order should be modified based upon the hardship provisions in rule 441—98.8(252D).

441—98.20(252D) Refunds of amounts improperly withheld. Child support services will refund to the obligor any amounts improperly withheld and received by the department under an income withholding order or notice issued by child support services, subject to the following:

98.20(1) *Services provided by the department.* Only those amounts received by the department during the period enforcement services are being provided are subject to refund.

98.20(2) *Satisfaction of amount to withhold.* No refund will be made unless amounts have been collected that fully satisfy the amount specified in the income withholding order or notice for the withholding period during which income has been generated.

98.20(3) *When issued.* Any amounts received in excess of the amounts specified in the order or notice to withhold will be issued to the obligor within 30 days of discovery by child support services unless the obligor requests in writing that these amounts be credited toward the delinquency or future child support. If there is a dispute regarding whether there is an overpayment, the obligor may request an informal conference by following the procedures set out in subparagraphs 98.17(2)“b”(3) through (7). This procedure will not preclude the obligor from utilizing other civil remedies.

98.20(4) *Recovery by child support services.* The department may recover payments from the obligee in excess of those described in subrule 98.20(2) that have been received by the department and improperly forwarded to the obligee.

441—98.21(96) Child support intercept of unemployment insurance benefits. When the department of workforce development notifies child support services that an individual who owes a child support obligation being enforced by child support services has been determined to be eligible for unemployment insurance benefits, child support services will enforce a child support obligation that is owed by an obligor but is not being met by intercept of unemployment insurance benefits. “Owed but not being met” means either current child support not being met or arrearages that are owed.

98.21(1) *Withholding.* Child support services will intercept unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and this chapter. The amount to be withheld through a withholding of unemployment insurance benefits will not exceed the amount specified in 15 U.S.C. Section 1673(b) (as amended to August 1, 2024).

98.21(2) Reserved.

441—98.22(252B) Administrative seek employment order. Child support services may enter an ex parte order requiring the obligor to seek employment in accordance with Iowa Code section 252B.21.

441—98.23(252B) Effective date of seek employment order. The seek employment order will be effective 15 days after issuance of the order to the obligor. This 15-day period will serve as advance notice to the obligor.

441—98.24(252B) Method and requirements of reporting for administrative seek employment order. The obligor shall complete a form prescribed by the department, which will be submitted to child support services on a weekly basis throughout the duration of the order unless the obligor has a valid reason for not complying with the order. The obligor will document at least five new attempts to find employment on the form each week. The same employer may not be reported more than once per week.

The obligor will include the names, addresses, and the telephone numbers of each of the five employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom the inquiry was directed.

441—98.25(252B) Reasons for noncompliance of administrative seek employment. Upon verification, certain conditions will be considered valid reasons for noncompliance. At the request of child support services, the obligor will provide verification of any reason for noncompliance with the order when the information is not available to child support services through online sources. Valid reasons for noncompliance and acceptable verification are:

98.25(1) *Receipt of social security, supplemental security income (SSI), or FIP.* Receipt of social security, SSI, or FIP is considered a valid reason for noncompliance when verified by information contained in online sources available to child support services or written verification from the agency providing the benefits.

98.25(2) *Temporary illness or disability.* Temporary illness or disability of the obligor or other household member is considered a valid reason upon receipt of a completed form prescribed by the department verifying the obligor's inability to seek or accept employment.

98.25(3) *High school student.* Attending high school is considered a valid reason upon verification from the high school.

98.25(4) *Incarceration.* Incarceration is considered a valid reason when verified through online information available to child support services or on receipt of verification from the institution.

98.25(5) *Substance use disorder treatment.* Participating in a supervised substance use disorder treatment program that is associated with a treatment center is considered a valid reason upon verification from the treatment center.

98.25(6) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving benefits from the Supplemental Nutrition Assistance Program is considered a valid reason upon receipt of verification from the department of employment services.

98.25(7) *Employment or self-employment.* Employment or self-employment is considered a valid reason upon verification through the employer for those employed or through tax documents or business records for those self-employed.

98.25(8) *Payment of support.* Payment on the account equal to the amounts prescribed for income withholding in accordance with rule 441—98.7(252D) throughout the duration of the seek employment order is considered a valid reason upon verification of payments posted to the Iowa collection and reporting (ICAR) system.

441—98.26(252B) Administrative seek employment method of service. The seek employment order will be served on the obligor by regular mail. Proof of service will be completed according to Rule of Civil Procedure 1.442.

441—98.27(252B) Administrative seek employment order duration of order. The seek employment order will remain in effect for three months from the date of issuance unless child support services determines the obligor has a valid reason for noncompliance as specified at rule 441—98.25(252B), at which time the order becomes unenforceable.

Upon acceptance of the reason for noncompliance, child support services will notify the obligor that the obligor is no longer required to comply with the seek employment order. Upon denial of the reason for noncompliance, child support services will notify the obligor that the obligor will comply with the existing seek employment order. The notice will be filed with the clerk of the district court. If the obligor disputes this decision, the obligor will have recourse through the district court.

441—98.28(252B) Setoff against payment owed to a person by a state agency. The department will make a claim pursuant to 701—Chapter 26 against a payment owed to an obligor by a state agency when support is delinquent and the case qualifies for setoff. Any setoff received as the result of a claim against a payment owed to an obligor will be applied to court-ordered support that the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.28(1) *Case selection.* The department will submit periodically a list of obligors who are delinquent at least \$50 in support payments to the department of revenue.

98.28(2) *Distribution of setoff amount.* Setoffs will be applied in accordance with rules 441—95.3(252B) and 441—95.4(252B).

98.28(3) *Percentage of payment setoff.* The amount of setoff will be 50 percent of the total payment due the obligor unless the payment results from lottery winnings, from gambling winnings, from sports wagering winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of setoff will be 100 percent of the payment. The amount taken will not exceed the delinquent amount owed by the obligor.

441—98.29(252B) Setoff against state income tax refund or rebate. The department will make a claim pursuant to 701—Chapter 26 against an obligor's state income tax refund or rebate when support

is delinquent and the case qualifies for setoff. Any setoff received as the result of a claim against an obligor's state income tax refund or rebate will apply to support that the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.29(1) *Case selection.* The department will submit periodically a list of obligors who are delinquent at least \$50 in support payments to the department of revenue.

98.29(2) *Refunds.* The department will refund any amount incorrectly setoff to the department of revenue or to the obligor pursuant to 701—subrule 26.7(6). The obligor may agree in writing to apply the refund of the incorrect setoff to any other support obligation due in cases where child support services would otherwise refund the setoff directly to the obligor.

98.29(3) *Distribution of setoff amount.* Setoffs will be applied as provided in rule 441—95.3(252B).

441—98.30(252B) Offset against federal income tax refund and federal nontax payment. The department will make a claim against an obligor's federal income tax refund or federal nontax payment when delinquent support is owed. For purposes of this offset, delinquent support will include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4). Any offset received as the result of a claim against an obligor's federal income tax refund or federal nontax payment will apply to support that child support services is attempting to collect pursuant to Iowa Code chapter 252B.

98.30(1) *Amount of assigned support.* If the delinquent support is assigned to the department, the amount of delinquent support will be at least \$150, calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least \$50.

98.30(2) *Amount of nonassigned support.* If delinquent support is not assigned to the department, the claim will be made if the amount of delinquent support is at least \$500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least \$50.

a. The amount distributed to an obligee will be the amount remaining following payment of a support delinquency assigned to the department. The department will distribute to an obligee the amount collected from an offset according to subrule 98.30(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.30(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.30(8), whichever is later.

(3) However, the department is not mandated to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

b. Federal nontax payment offsets will be applied as provided in rule 441—95.3(252B).

98.30(3) *Notification to federal agency.* The department will, as permitted or specified by federal regulations, submit notification(s) of liability for delinquent support to the federal Office of Child Support Services.

98.30(4) *Preoffset notice and review.* Each obligor who does not have an existing support debt on record with the federal Office of Child Support Services will be sent a preoffset notice in writing, using address information provided to the federal Office of Child Support Services, stating the amount of the delinquent support certified for offset.

a. Individuals whose names were submitted for federal offset who wish to dispute the offset must notify the department in writing within the time period specified in the preoffset notice.

b. Upon receipt of a complaint from the individual disputing the submission for offset, child support services will conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days.

98.30(5) *Recalculation of delinquency.* When the records of the department differ from those of the obligor for determining the amount of the delinquent support, the obligor may provide and the

department will accept documents verifying modifications of the order, records of payments made pursuant to state law, and will recalculate the delinquency.

98.30(6) *Notification of modification or elimination.* The department will notify the federal Office of Child Support Services, within time frames established by the federal Office of Child Support Services, of any modification or elimination of an amount referred for offset.

98.30(7) *Failure to timely respond.* When an individual does not respond to the preoffset notice within the specified time even though the department later agrees a certification error was made, the individual must wait for corrective action as specified in subrule 98.30(8).

98.30(8) *Offset notice, appeal, and refund.* The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When child support services receives information from the federal Office of Child Support Services regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department will issue to that individual a form prescribed by the department.

a. The individual whose name was submitted for federal offset will have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal will be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

b. The department will refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification means a listing from the federal Office of Child Support Services containing the obligor's name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

c. The department will refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

98.30(9) *Application of offsets.* Offsets of federal income tax refunds will be applied to delinquent support only. The department will first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department will then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

441—98.31(252I) Administrative levy. When there is a delinquency in an amount equal to the ordered support payable for one month, child support services may issue an administrative levy pursuant to Iowa Code chapter 252I and according to Rule of Civil Procedure 1.442.

441—98.32(252J) Referral for license sanction. In the process referred to as license sanction, child support services may refer an individual to a licensing agency for the suspension, revocation, nonissuance, or nonrenewal of a variety of licenses, including but not limited to motor vehicle registrations; driver's licenses; business and professional licenses; and licenses for hunting, fishing, boating, or other recreational activity. In order to be referred to a licensing agency for license sanction, one of the following must apply:

98.32(1) *Delinquent support payments.* An obligor's support payments must be delinquent in an amount equal to the support payment for three months. Child support services will not refer obligors whose support payments are being made under an income withholding order.

98.32(2) *Subpoena or warrant.* An individual must have failed to comply with a subpoena or warrant, as defined in Iowa Code chapter 252J, relating to a paternity or support proceeding. If a subpoena was issued, the individual must have failed to comply with a form prescribed by the department or an Interstate Subpoena as provided in 441—subrule 96.2(1) within 15 days of the issuance of the subpoena, and proof of service of the subpoena was completed according to Rule of Civil Procedure 1.442.

441—98.33(252J) Reasons for exemption from license sanction. Certain conditions will be considered valid reasons for exemption from the license sanction process. Upon verification of these conditions, child support services will bypass, exempt, or withdraw the individual's name from referral to licensing agencies for the purpose of applying a license sanction. When the information to verify the exemption is not available to child support services through online sources, child support services will request, and the individual will provide, verification of the reason for exemption. Valid reasons for exemption for failure to comply with a subpoena or warrant and acceptable verification are those listed in subrules 98.33(2), 98.33(3), 98.33(5), and 98.33(6). Valid reasons for exemption for delinquent support payments and acceptable verification are any of the following:

98.33(1) *Receipt of social security, supplemental security income (SSI) or FIP.* Receipt of social security, SSI, FIP, or county assistance (general relief, general assistance, community services, and veteran's assistance), based upon the eligibility of the obligor, is considered a valid reason for exemption when verified by information contained in online sources available to child support services or written verification from the agency providing the benefits.

98.33(2) *Temporary illness or disability.* Temporary illness or disability of the individual or illness or disability of another household member that requires the presence of the individual in the home as caretaker is considered a valid reason for exemption upon receipt of a completed form prescribed by the department verifying the individual's or household member's inability to work.

98.33(3) *Incarceration.* Incarceration is considered a valid reason for exemption when verified through online information available to child support services or upon receipt of verification from the institution.

98.33(4) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving benefits from the Supplemental Nutrition Assistance Program is considered a valid reason for exemption upon receipt of verification from the department of employment services or verification through online information available to child support services or upon receipt of a written statement from an income maintenance worker.

98.33(5) *Chemical dependency treatment.* Participation in a chemical dependency treatment program that is licensed by the department or the joint commission (TJC) is considered a valid reason for exemption upon receipt of written verification from the professional staff of the program that participation in the program precludes the individual from working.

98.33(6) *Contempt process.* Involvement in a contempt action dealing with support issues is considered a valid reason for exemption from the license sanction process during the pendency of the contempt action.

441—98.34(252J) Notice of potential sanction of license. When an individual meets the criteria for selection, child support services may issue a notice to the individual of the potential sanction of any license held by the individual pursuant to Iowa Code chapter 252J using a form prescribed by the department.

441—98.35(252J) License sanction conference.

98.35(1) *Scheduling of conference.* Upon receipt from an individual of a written request for a conference, child support services will schedule a conference not more than 30 days in the future. At the request of either child support services or the individual, the conference may be rescheduled one time. When setting the date and time of the conference, if notice was sent to an obligor under rule 441—98.34(252J), child support services will request the completion of a form prescribed by the department and other financial information from both the obligor and the obligee as may be necessary to determine the obligor's ability to comply with the support obligation.

98.35(2) *Payment calculation.* If notice was sent to an obligor under rule 441—98.34(252J) during the conference held in compliance with the provisions of Iowa Code section 252J.4, child support services will determine if the obligor's ability to pay varies from the current support order by applying the mandatory supreme court guidelines as contained in 441—Chapter 99, with the exception of 441—subrules 99.4(3) and 99.5(5). If further information from the obligor is necessary for the calculation,

child support services may schedule an additional conference no less than ten days in the future in order to allow the obligor to present additional information as may be necessary to calculate the amount of the payment. If, at that time, the obligor fails to provide the required information, child support services will issue a certificate of noncompliance to applicable licensing authorities. If the obligee fails to provide the necessary information to complete the calculation, child support services will use whatever information is available. If no income information is available for the obligee, child support services will determine the obligee's income in accordance with 441—subrules 99.1(2) and 99.1(4). This calculation is for determining the amount of payment for the license sanction process only and does not modify the amount of support obligation contained in the underlying court order.

98.35(3) *Referral for review and adjustment.* If the amount calculated in subrule 98.35(2) meets the criteria for review and adjustment as specified in rule 441—101.4(252B,252H), or administrative modification as specified in rule 441—101.12(252H) and 441—subrules 101.13(1), 101.13(2) and 101.13(6) at the time child support services provides the payment agreement to the obligor, child support services will also provide the obligor with any necessary forms to request a review and adjustment or administrative modification of the support obligation. The payment agreement remains in effect during the review and adjustment or administrative modification process.

441—98.36(252J) License Sanction Payment Agreement. The License Sanction Payment Agreement will require the obligor to pay the lower of the amount calculated in subrule 98.35(2) or the maximum amount payable under an income withholding order as specified in rule 441—98.7(252D).

98.36(1) *Duration of payment agreement.* The License Sanction Payment Agreement signed under this chapter will remain in effect for at least one year from the date of issuance unless child support services determines the obligor has a valid reason for exemption as specified in rule 441—98.33(252J). Except in those cases in which review and adjustment are in process, child support services may, at the end of the year, begin the process of reviewing the case so that the payment amount continues to accurately reflect the obligor's ability to pay as calculated in subrule 98.35(1).

98.36(2) *Failure to comply.* If at any time following the signing of a payment agreement the obligor fails to comply with all the terms of the agreement, child support services will issue a form prescribed by the department to applicable licensing authorities in accordance with the provisions of Iowa Code chapter 252J.

441—98.37(252J) Staying the process of license sanction due to full payment of support. If the obligor, at any time, pays the total support owed, both current and past due, or an individual complies with the subpoena or warrant, child support services will stay the process, and any form issued by the department will be withdrawn by child support services.

441—98.38(252J) Duration of license sanction. Forms issued by the department will remain in effect until the obligor pays all support owed, both arrears and current; or the obligor enters into a payment agreement with child support services; or the obligor meets one of the criteria for exemption specified at subrules 98.33(1), 98.33(2), and 98.33(4); or the individual complies with the subpoena or warrant.

441—98.39(252B) Procedures for providing information to consumer reporting agencies. Child support services may make information available to consumer reporting agencies regarding the amount of delinquent support owed by a responsible person, but only in cases where the delinquent support exceeds \$1,000. However, before child support services will release the information to a consumer reporting agency, the agency must meet the requirements for a nationwide consumer reporting agency under Iowa Code section 252B.9(3) "j."

98.39(1) *Request of information.* Agencies may request the information from the department. Requests for information about an individual shall include the individual's name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of \$1,000.

98.39(2) *Notice of proposed release of information.* A notice of proposed release of information will be sent to the last-known address of the responsible person 30 calendar days prior to the release of

the support arrearage information to a consumer reporting agency. This notice will explain the information to be released and the methods available for contesting the accuracy of the information.

98.39(3) *Contesting proposed release of information.* The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with child support services to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases, no referral will be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed \$1,000.

441—98.40(252B) Difficult-to-collect arrearages. Child support services may refer difficult-to-collect arrearages to a collection entity under contract with child support services or with another state entity. Upon referral, a surcharge, in addition to the support, shall be due and payable by the obligor as provided in Iowa Code chapter 252B.

98.40(1) *Difficult-to-collect arrearage.* A difficult-to-collect arrearage is one based upon a court or administrative order that meets all the following criteria:

- a. There is no order for current support and only an arrearage is owing.
- b. There has been no payment, except for federal or state tax refund offset payments, in the past three months.
- c. There is no valid reason for exemption from the referral and surcharge process. Valid reasons for exemption and acceptable verification are those listed in subrules 98.33(1), 98.33(3), and 98.33(6). Upon verification of those conditions, child support services will bypass or exempt the obligor's arrearages from the referral and surcharge process. When the information to verify the exemption is not available to child support services through online sources, child support services will request, and the obligor will provide, verification of the reason for exemption.

98.40(2) *Notice of the possibility of referral and surcharge.* Child support services will provide notice of the possibility of a referral and surcharge to the obligor as mandated by Iowa Code chapter 252B. The notice will be provided at least 15 days before child support services sends the notice of referral and surcharge to the obligor, subject to the following:

- a. *Notification contained in order.* When the support order under which the arrearage has accrued contains language advising of statutory provisions for referral and surcharge, no other preliminary notice will be required.
- b. *Notification issued by child support services.* When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, child support services will issue a notice to the obligor pursuant to Iowa Code section 252B.23.

98.40(3) *Notice of referral and surcharge.* Child support services will send notice of a referral and surcharge to the obligor by regular mail to the obligor's last-known address, with proof of service completed according to Rule of Civil Procedure 1.442. The notice will contain all the information mandated by Iowa Code chapter 252B. The notice will be sent at least 30 days before child support services refers the arrearage to the collection entity.

98.40(4) *Contesting the referral and surcharge.* An obligor may contest the referral and surcharge. The right to contest is limited to a mistake of fact, including but not limited to a mistake in the identity of the obligor, a mistake as to whether there was a payment in the three months before the date of the notice specified in subrule 98.40(3), a mistake as to whether an exemption in paragraph 98.40(1) "c" applies, or a mistake in the amount of arrearages.

- a. An obligor may contest the referral and surcharge by submitting a written request for a review to child support services within 20 days of the date on the notice of referral and surcharge specified in subrule 98.40(3). Upon receipt of a written request for review, child support services will follow the criteria and procedures specified in Iowa Code chapter 252B for resolving the request.

(1) If child support services determines there is a mistake in the identity of the obligor, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.40(3), or if there is another mistake of fact and the arrearage does not meet

the criteria for referral, child support services will issue a written notice to the contestant or obligor of the determination and not refer the arrearages. If child support services later determines an arrearage may be subject to referral, it will issue a new notice as provided in subrule 98.40(3).

(2) If child support services determines there was a mistake in the amount of arrearages, but the corrected amount of arrearages will still be referred, or if child support services determines there is no mistake of fact, child support services will issue a written notice of the determination of the review to the obligor by regular mail to the last-known address of the obligor. The notice will include the amount of the arrearages that will be referred and the surcharge that will be assessed. The notice will also include information on requesting an additional review by the department, and on requesting a judicial hearing.

b. An obligor may contest the notice of determination of review by submitting a written request for an additional review by the department within 20 days of the date of the notice of determination of the review issued under paragraph 98.40(4)“*a.*” Upon receipt of the written request for additional review, child support services will review the facts of the case.

(1) If the department determines a mistake in the identity of the obligor has occurred, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.40(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, the department will issue a written notice to the contestant or obligor of the determination and the arrearages will not be referred. If child support services later determines an arrearage may be subject to referral, it will issue a new notice as provided in subrule 98.40(3).

(2) If the department determines that there was a mistake in the amount of the arrearage but the corrected amount of arrearages will still be referred, or if there is no mistake of fact, the department will send a written notice of the additional review determination to the obligor by regular mail to the last-known address of the obligor. The notice will include the amount of the arrearage that will be referred and the surcharge that will be assessed. The notice will also include information on requesting a judicial hearing.

c. Following the issuance of a notice of determination of a review under paragraph 98.40(4)“*a.*,” or issuance of a notice of determination of an additional review under paragraph 98.40(4)“*b.*,” the obligor may request a district court hearing. The obligor will make a request by sending a written request for a hearing to child support services within ten days of the date of the department’s written determination of the review, or within ten days of the date of child support services’ written determination of an additional review, whichever is later. Procedures for a district court hearing are specified in Iowa Code chapter 252B.

d. Child support services will not refer arrearages and assess a surcharge until after completion of any review, additional review or judicial hearing process.

98.40(5) *Referral and surcharge.*

a. If the obligor has not paid the arrearage, has not contested the referral, or if, following child support services review, the department’s additional review, and any judicial hearing, child support services, or court does not find a mistake of fact, the arrearage will be referred to the collection entity.

b. The amount of the arrearage referred will be the amount that is unpaid as of the date of the referral. The amount of the surcharge will be an amount equal to the amount of the arrearage unpaid as of the date of the referral, multiplied by the percentage specified in the contract with the collection entity.

c. Child support services will file a notice of the surcharge with the clerk of the district court in the county in which the underlying support order is filed.

441—98.41(252B) Enforcement services by private attorney entitled to state compensation. An attorney licensed to practice law in Iowa may utilize judicial proceedings to collect support, at least a portion of which is assigned support, and be entitled to compensation by the state as provided in Iowa Code chapter 252B.

98.41(1) *Eligible cases.* To be eligible for attorney services with compensation under this rule, a case must meet all of the following:

a. Child support services is providing services under Iowa Code chapter 252B.

b. The current support obligation is terminated and only arrearages are due under the administrative or court order.

c. There has been no payment under any order in the case for at least a 12-month period prior to the provision of the notice from the attorney to child support services under paragraph 98.41(1) "f."

d. At least a portion of the arrearages due under any order in the case is assigned to the state because cash assistance was paid under Iowa Code chapter 252B.

e. The case does not have any of the following characteristics:

(1) There has been a finding of good cause or other exception pursuant to Iowa Code section 252B.3.

(2) A portion of the arrears is assigned to another state because of public assistance provided by that state.

(3) Another attorney has already notified child support services of the intent to initiate a judicial proceeding to collect support due under any order in the same case under this rule, and either the time to receive the collection has not expired or child support services has not received a notice from the other attorney that the judicial proceeding has concluded prior to the expiration of the time period.

(4) If the notice from the attorney under paragraph 98.41(1) "f" specifies contempt of court as the judicial proceeding, and child support services has generated an administrative seek employment order to the obligor under Iowa Code section 252B.21 less than nine months prior to the date on the notice from the attorney.

(5) The case or arrearages have been referred by child support services to a collection entity under Iowa Code section 252B.5(3) less than nine months prior to the date on the notice from the attorney.

(6) The obligor has filed for bankruptcy and collection activities are stayed.

(7) The notice from the attorney under paragraph 98.41(1) "f" lists a specific judicial proceeding and child support services has already initiated the same type of proceeding in court.

(8) The case has been referred to the U.S. Attorney's office and is still pending at that office.

f. The attorney has provided written notice to the central office of child support services, and to the last-known address of the obligee of the intent to initiate a specified judicial proceeding to collect support on any identified court or administrative order involving the obligor and obligee in the case.

g. The attorney has provided documentation of insurance to child support services as mandated by Iowa Code chapter 252B.

h. The collection must be received by the collection services center within 90 days of the notice from the attorney in paragraph 98.41(1) "f," or within a subsequent 90-day extension period.

98.41(2) Procedure.

a. To begin the process under this rule, the attorney shall submit the following to the department at least 30 days prior to initiating the specified judicial proceeding:

(1) A dated, written statement that lists the specific judicial proceeding that the attorney intends to initiate, any court or administrative order under which the arrearages accrued identified by the order number, and the names of the obligor and obligee.

(2) Documentation that the attorney is insured as mandated by the statute. Documentation shall be either a copy of the attorney's policy from the insurer, or a letter from the insurer verifying insurance coverage as mandated by the statute.

(3) Documentation that the attorney is licensed to practice law in Iowa.

b. Child support services will mail a response to the attorney within ten days of receipt of the notice from the attorney. All of the following will apply to the child support services response:

(1) If the case meets the requirements of this rule, the notice will list the case number, any order numbers, the judicial proceeding specified by the attorney, the balance due the state of Iowa, the balance due an obligee, and the date that is 90 days from the date of the notice from the attorney. The notice will also contain a statement that any compensation due the attorney as a result of application of this rule will be calculated on the amount of support credited to arrearages due the state at the time the support paid as a result of the judicial proceeding is received by the collection services center. The notice will also contain a statement that any support collected will be disbursed in accordance with federal requirements,

and any support due the obligee will be disbursed to the obligee prior to disbursement to the attorney as compensation.

(2) If the case does not meet the requirements of this rule, the notice will list the case number, any order number, and the reason the case does not meet the requirements.

c. If the case is eligible under this rule, the attorney may initiate judicial proceedings after 30 days after providing the notice to child support services in paragraph 98.41(2)“a.” Iowa Code chapter 252B defines “judicial proceedings.”

d. The attorney may extend the time to complete the judicial proceeding or to allow for receipt of the collection by the collection services center by submitting a notice requesting a 90-day extension to the address in paragraph 98.41(2)“a.” This or any subsequent notice must be received by child support services before expiration of the current 90-day time frame. Child support services will acknowledge receipt of the subsequent notice and list on the acknowledgment the date that is 90 days from the date of the attorney’s subsequent notice.

98.41(3) *Collection and payment to attorney.*

a. Upon compliance with the requirements of Iowa Code chapter 252B and this rule, the attorney will be entitled to compensation from the state as provided for in this rule.

b. Upon receipt of a file-stamped copy of a court order that identifies the amount of support collected as a result of the judicial proceeding and that does not order the payment of attorney fees by the obligor, and the receipt of the collection by the collection services center, all the following apply:

(1) Iowa Code chapter 252B specifies the formula to calculate the compensation due the attorney from the state. Child support services will calculate the compensation due the attorney based upon the amount of support that is credited to arrearages due the state at the time the collection is received by the collection services center. After calculating the amount due the attorney, child support services will reduce the amount due the attorney by the amount of any penalty or sanction imposed upon the state as a result of any other judicial proceeding initiated by that attorney under Iowa Code chapter 252B. Child support services will send the attorney a notice of the amount of the compensation due from the state.

(2) The collection services center will disburse any support due an obligee prior to payment of compensation to the attorney.

(3) Child support services will not authorize disbursement of compensation to the attorney until the later of 30 days after receipt of the collection and the file-stamped copy of the order, or resolution of any timely appeal by the obligor or obligee.

(4) The amount of compensation due the attorney is subject to judicial review upon application to the court by the attorney.

441—98.42(17A) Right of appeal.

98.42(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 will be limited to the following issues:

a. A claim or offset is contested as provided in subrule 98.29(2), 98.30(3), or 98.30(8) by a person’s alleging a mistake of fact.

b. A name has been certified for passport sanction as provided in Iowa Code section 252B.5.

98.42(2) A hearing will not be granted under 441—Chapter 7 when the appellant has a complaint about child support services enforcement matters other than those described in this rule.

441—98.43(17A) Appeal record. The record in an administrative appeal under this rule will include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal and the verbatim record of the hearing.

These rules are intended to implement Iowa Code sections 96.3, 252B.9, 252B.21, 252B.5, 252B.3, 252B.4, and 421.65; chapters 252D, 252E, 252I, 252J, and 17A; and 15 U.S.C. Section 1673(b).

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8965C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rulemaking related to child support guidelines**

The Department of Health and Human Services hereby rescinds Chapter 99, “Support Establishment and Adjustment Services,” and adopts a new Chapter 99, “Child Support Guidelines,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 252B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 252B.

Purpose and Summary

This rulemaking is in response to Executive Order 10. This chapter sets process standards and guidelines for determining income of a parent. This chapter was previously Division I of 441—Chapter 99 (additional divisions, beyond Division I, have been restructured and repromulgated into 441—Chapters 100, 101, and 102).

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8557C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 99 and adopt the following **new** chapter in lieu thereof:

CHAPTER 99
CHILD SUPPORT GUIDELINES

441—99.1(234,252B,252H) Income considered. Child support services will consider all regularly recurring income of both legal parents to determine the amount of the support award in accordance with the child support guidelines prescribed by the Iowa Supreme Court. Spousal support will be considered as specified in the Iowa Supreme Court guidelines and prior obligation spousal support actually paid or received will be calculated in the same manner as the deductions for support in subrule 99.2(1). These rules on child support guidelines will not apply if child support services is determining the support amount by a cost-of-living alteration as provided in Iowa Code chapter 252H, subchapter IV.

99.1(1) Exempt income. The following income of the parent is exempt in the establishment or modification of support:

- a. Income received by the parent under the family investment program (FIP).
- b. Income or other benefits derived from public assistance programs funded by a federal, state, or local governmental agency or entity that are listed in 441—41.8(239B) as exempt from consideration in determining eligibility under FIP.
- c. Income such as child support, social security dependent benefits received by a parent for a child because of the other parent's disability, and veteran's dependent benefits received by a parent on behalf of a child.
- d. Stepparent's income.
- e. Income of a guardian who is not the child's parent.
- f. Income of the child's siblings.
- g. Earned income tax credit.

99.1(2) Determining income. Any of the following may be used in determining a parent's income for establishing or modifying a support obligation:

- a. Income reported by the parent in a financial statement.
- b. Income established by any of the following:
 - (1) Income verified by an employer or other source of income.
 - (2) Income reported to the department of workforce development.
 - (3) For a public assistance recipient, income reported to the department of health and human services caseworker assigned to the public assistance case.
 - (4) Other written documentation that identifies income.
- c. Income as determined through occupational wage rate information published by the Iowa workforce development department or other state or federal agencies.
- d. The median income for parents on the child support services caseload, calculated annually.
- e. Social security dependent benefits. Social security dependent benefits paid for a child because of a parent's disability will be included in the disabled parent's income. Social security dependent benefits paid for a parent due to the other parent's disability will be included in the receiving parent's income.

99.1(3) Verification of income. Verification of income and allowable deductions from each parent will be requested.

- a. Verification of income may include but is not limited to the following:
 - (1) Federal and state income tax returns.

- (2) W-2 statements.
- (3) Pay stubs.
- (4) Signed statements from an employer or other source of income.
- (5) Self-employment bookkeeping records.
- (6) Award letters confirming entitlement to benefits under a program administered by a government or private agency such as social security, veterans' or unemployment benefits, military or civil service retirement or pension plans, or workers' compensation.

b. Cases in which the information or verification provided by a parent is questionable or inconsistent with other circumstances of the case may be investigated. If the investigation does not reveal any inconsistencies, the financial statement and other documentation provided by the parent will be used to establish income.

c. If discrepancies exist in the financial statement provided by the parent and additional income information is not available, child support services may:

- (1) Request a hearing before the court if attempting to establish a support order through administrative process.
- (2) Conduct discovery if a parent places the matter before the court by answering a petition or requesting a hearing before the court.
- (3) When attempting to establish a default order, provide the court with a copy of the parent's financial information and the reasons the information may be questionable.

d. If child support services is unable to obtain verification of a parent's income, the financial statement provided by the parent may be used to establish support.

99.1(4) *Use of occupational wage rate information or median income for parents on the child support services caseload.* Child support services will use occupational wage rate information or median income for parents on the child support services caseload to determine a parent's income when the parent has failed to return a completed financial statement when requested, and when complete and accurate income information from other readily available sources cannot be secured. If a parent's most recent residential address is in Iowa, child support services will use Iowa workforce development regional data to determine income. If a parent's most recent residential address is in another state, the District of Columbia, or Puerto Rico, child support services will use wage data from the place of the parent's most recent residence to determine income. For all other cases, child support services will use Iowa statewide occupational wage rate or median income for parents on the child support services caseload to determine income.

a. *Occupation known.* When child support services can reasonably ascertain the current or last-known occupation of a parent, child support services will use occupational wage rate information to determine income. Wage rate information will be converted to a monthly amount in accordance with subrule 99.3(1).

b. *Occupation unknown.* When child support services cannot reasonably ascertain the current or last-known occupation of a parent, child support services will determine the income of a parent using the median income amount for parents on the child support services caseload, based upon the parent's most recent residential address.

99.1(5) *Self-employment income.* A self-employed parent's adjusted gross income, rather than the net taxable income, will be used in determining net income. The adjusted gross income will be computed by deducting business expenses involving actual cash expenditures that affect the actual dollar income of the parent.

a. A person is self-employed when the person:

- (1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.
- (2) Establishes the person's own working hours, territory, and methods of work.
- (3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service (IRS).

b. In calculating net income from self-employment, child support services will deduct only those items allowed by the child support guidelines. Amounts from a prior period claimed as net losses will not be allowed as deductions.

c. Net profits from self-employment may be determined through a review of self-employment bookkeeping records, sales and expenditure records, quarterly reports filed with the IRS, previous year's federal or state income tax returns, or other documentation. The parent must provide records of bookkeeping, sales, and expenditures for the most recent 12-month period or, if the self-employment is less than 12 months old, for the period since the self-employment began.

99.1(6) *Fluctuating income.* A person has a fluctuating income when the calculated gross income or the adjusted gross income, as defined in subrule 99.1(5), for the current year varies from the gross or adjusted gross income of the previous year by more than 20 percent.

a. If requested, child support services will average the income of a person whose income fluctuated because the nature of the person's occupation is of a type that normally experiences fluctuations in income.

b. In determining a person's average income, the following procedures will be used:

(1) For non-self-employed persons, child support services will estimate the gross income for the current year and add the amount to the gross income from relevant years that would accurately depict fluctuations in the person's income. Child support services will divide this sum by the number of years added, prior and current, to arrive at an average gross annual income. Child support services will divide the average gross annual income by 12 to arrive at the person's average gross monthly income.

(2) For income from self-employment, child support services will compute the adjusted gross annual income as defined in subrule 99.1(5) for the relevant years that would accurately depict fluctuations in the person's income. Child support services will use the adjusted gross annual income to compute the average adjusted gross monthly income in the same manner as the computation of average gross monthly income for a non-self-employed person.

441—99.2(234,252B) Allowable deductions. The deductions specified in the Iowa Supreme Court child support guidelines will be allowed when determining the amount of income subject to application of the guidelines. The parent claiming the deduction must provide the documentation necessary for computing allowable deductions. When applying the deductions specified in the Iowa Supreme Court guidelines, the following will also apply:

99.2(1) In determining the amount of child support actually paid pursuant to a prior court or administrative order, the date of the original court or administrative order, rather than the date of any modifications, will determine whether it is a prior order. Support paid under an order established subsequent to the order being modified will not be deducted. All support payments will be verified before being allowed as a deduction. Child support services will calculate deductions for support as follows:

a. If the obligation is one year old or older, child support services will add together all verified amounts paid during the past 12 months preceding the current month up to the total of the current support obligation that accrued during this 12-month period, and divide by 12. All amounts collected will be included, regardless of the source.

b. If the support obligation is less than one year old, child support services will add together the verified amounts paid since the obligation began up to the total of the current support obligation that accrued during this period, and divide by the number of months that the obligation has existed.

c. When a parent has more than one prior support order, child support services will calculate the allowable deduction for each obligation separately, and then add the amounts together to determine the parent's total allowable deduction.

99.2(2) Health insurance premium costs will be verified before being allowed as a deduction.

99.2(3) Child support services will determine the amount of the deduction for actual child care expenses as follows:

a. Actual child care expenses will be verified by a copy of the custodial parent's federal or state income tax return or by a signed statement from the person or agency providing the child care.

b. Only the amount of reported child care expenses in excess of the amount allowed as “credit for child and dependent care expenses” for federal income tax purposes will be allowed as a deduction in determining the custodial parent’s net income.

c. In determining the deduction allowed to the custodial parent for child care expenses, the following procedures will be used:

(1) If the custodial parent provides a copy of a federal income tax return for the current tax processing year and the amount is consistent with the current financial circumstances of the parent, child support services will use the amount reported as “credit for child and dependent care expenses.”

(2) If income tax information is not available, or if the parent indicates or there is reason to believe that the amount stated in the return is no longer representative of the parent’s financial conditions or child care expenses, child support services will determine the allowable deduction for child care expenses for federal income tax purposes using the custodial parent’s income only.

d. Child support services will compute the child care deduction as follows:

(1) Divide the amount of child care expense the parent may claim as a deduction for federal income tax purposes by 12 to arrive at a monthly amount.

(2) If the child care expense reported on the financial statement is not a monthly amount, convert the reported amount to an equivalent monthly figure and round the figure to two decimal places.

(3) Subtract the amount the parent may claim as “credit for child and dependent care expenses” for federal income tax from the amount of child care expenses reported on the financial statement. The difference is the amount allowed for a deduction in determining income for child support.

99.2(4) A qualified additional dependent deduction will be allowed for dependents of the custodial or noncustodial father or mother, whether in or out of the parent’s home. The father may establish the deduction by providing written verification of a legal obligation to the child through one of the actions enumerated in the guidelines. The mother may establish the deduction by providing written verification of a legal obligation to the child, including a written statement by the mother or a birth certificate.

99.2(5) All cash medical support payments for other children, not in the pending matter, will be verified before being allowed as a deduction and will be calculated in the same manner as the deductions for support in subrule 99.2(1).

441—99.3(234,252B) Determining net income. Unless otherwise specified in these rules, child support services will determine net income as prescribed by the Iowa Supreme Court guidelines.

99.3(1) *Calculating net income.* All allowable income and allowable deductions will be expressed in monthly amounts. Income and corresponding deductions received at a frequency other than monthly will be converted to equivalent monthly amounts by multiplying the income and corresponding deductions received on a weekly basis by 4.33, on a biweekly basis by 2.17, and on a semimonthly basis by 2.

99.3(2) *Estimating net income.*

a. The estimated net income of a parent will be 80 percent of the reported income or the estimated income as determined from occupational wage rate information or derived from the median income of parents on the child support services caseload, as appropriate, to account for an estimate of the Iowa Supreme Court guidelines deductions for federal and state taxes and Social Security and Medicare taxes. The parent will also be entitled to additional deductions allowed by the guidelines when the information to calculate these deductions is readily available through automated or other sources.

b. The net income of a parent will be estimated under the following conditions:

(1) Gross earned income information was obtained from a source that did not provide itemized deductions allowed by the mandatory support guidelines.

(2) Occupational wage rate information or median income of parents on the child support services caseload was used to determine a parent’s income.

441—99.4(234,252B) Applying the guidelines.

99.4(1) *Applying the guidelines.* Child support services will use the child support guidelines schedule as prescribed by the Iowa Supreme Court only for the number of children for whom support is being sought sharing the same two legal parents.

Exception: For foster care recovery cases, the guidelines schedule will be used as set forth in subrule 99.5(4).

99.4(2) *Establishing current support.*

a. Calculation. Child support services will calculate the amount of support as prescribed by the Iowa Supreme Court guidelines. Round amount of support to the nearest whole dollar.

b. Additional factors.

(1) In all cases other than foster care, child support services will establish current support payable in monthly frequencies.

(2) In foster care cases, child support services may establish current support payable in monthly or weekly frequencies. To establish a weekly amount, child support services will divide the figure in paragraph 99.4(2) “a” by 4.33 and round to the nearest whole dollar.

(3) If the court orders joint (equally shared) physical care of a child or split or divided physical care of multiple children, child support services will calculate current support according to the Iowa Supreme Court guidelines for each parent assuming the other is the custodial parent. If a child begins receiving family investment program (FIP) benefits or if foster care funds are expended, an offset of the two amounts as a method of payment will be disallowed.

(4) The amount of support will be zero if the noncustodial parent’s only income is Supplemental Security Income paid pursuant to 42 U.S.C. 1381a (as amended to August 1, 2024).

99.4(3) *Establishing accrued support debt amount.*

a. Support debt created. The payment of public assistance to or for the benefit of a dependent child or a dependent child’s caretaker creates an accrued support debt due and owing by the child’s parent to the department. The amount of the accrued support debt is based on the period of time public assistance payment or foster care funds were expended, but is not created for the period of receipt of public assistance on the parent’s own behalf for the benefit of the dependent child or the child’s caretaker.

b. Calculating accrued support debt. Child support services will calculate the accrued support debt as follows:

(1) For FIP benefits, child support services will use the period for which FIP was paid during the 36 months preceding the date the notice of support debt is prepared or the date the petition is filed. For foster care assistance, child support services will use the three-month period for which foster care assistance was paid prior to the date the initial notice to the noncustodial parent of the amount of support obligation is prepared, or the date a written request for a court hearing is received, whichever is earlier.

(2) Child support services will exclude periods the noncustodial parent received public assistance as a part of this eligible group.

(3) Child support services may extend the period to include any additional periods public assistance is expended prior to the entry of the order.

(4) Child support services will calculate the amount of the obligation by using the current net income of both parents, the guidelines in effect at the time the order is entered, and the number of children of the noncustodial parent who were receiving public assistance for each month for which accrued support is sought.

(5) Child support services will calculate the total amount of the FIP support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount.

(6) Child support services may calculate the total amount of the foster care support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount and will adjust this amount for weeks in which no foster care benefits were paid.

c. Establishing the accrued support repayment amount.

(1) In cases other than foster care, child support services will establish the repayment amount as follows:

1. When there is an ongoing obligation, the monthly repayment amount will be 10 percent of the ongoing amount unless the noncustodial parent agrees to a higher amount.

2. When the order does not include ongoing support, the monthly repayment amount will be the same as the amount for ongoing support that would have been due if such an obligation had been established. However, when all of the children for whom accrued support debt is sought are residing with the noncustodial parent, the monthly repayment amount will be set at 10 percent of this amount.

(2) In foster care cases, child support services will establish the repayment amount in the same manner as subparagraph 99.4(3)“c”(1), but may establish weekly amounts and if the order does not include ongoing support, the repayment amount will be set at 10 percent of the amount for ongoing support that would have been due if such an obligation had been established.

99.4(4) *Children in nonparental homes or foster care.* The parents of a child in a nonparental home or in foster care are severally liable for the support of the child. A support obligation will be established separately for each parent.

a. Parents' location known. When the location is known for both parents having a legal obligation to provide support for their children, the income of both parents will be used to determine the amount of ongoing support in accordance with the child support guidelines.

(1) Calculating support amount. There will be a separate calculation of each parent's child support amount, regardless of whether the parents are married and living together, or living separately. Each calculation will assume that the parent for whom support is being calculated is the noncustodial parent and the other parent is the custodial parent.

(2) Prior orders. If only one parent is paying support under a prior order for the children for whom support is being calculated, the amount of support paid will not be deducted from that parent's net monthly income in computing the support amount for the other parent.

b. One parent's location unknown. When the location of one parent is not known, procedures will be initiated to establish a support order against the parent whose location is known in accordance with the mandatory support guidelines as follows:

(1) The parent whose location is known will be considered the noncustodial parent and that parent's income will be used to calculate child support.

(2) The income of the parent whose location is unknown will be determined by using the estimated median income for parents on the child support services caseload and that parent will be considered the custodial parent in calculating child support.

c. When one parent is deceased or has had parental rights terminated, the method used to calculate support when one parent's location is not known will be used. The parent who is deceased or has had parental rights terminated will be considered the custodial parent with zero income.

99.4(5) *Adjustment for extraordinary visitation or parenting time.* Child support services will calculate an extraordinary visitation or parenting time credit as specified in the Iowa Supreme Court guidelines. The credit will not reduce the child support below the amount required by the Iowa Supreme Court guidelines.

The extraordinary visitation adjustment or parenting time credit will be given if all of the following apply:

a. There is an existing order for the noncustodial parent that meets the criteria for extraordinary visitation or parenting time in excess of 127 overnights per year on an annual basis for the child for whom support is sought. The order granting visitation or parenting time can be a different order than the child support order. If a controlling order is determined pursuant to Iowa Code chapter 252K and that controlling support order does not meet the criteria for extraordinary visitation or parenting time, there is another order that meets the criteria.

b. The noncustodial parent has provided child support services with a file-stamped or certified copy of the order.

c. The court has not ordered equally shared physical care.

99.4(6) *Establishing medical support.* Child support services will calculate medical support as required by Iowa Code chapter 252E and the Iowa Supreme Court guidelines. The cost of the health insurance premium for the child is added to the basic support obligation and prorated between the

parents as provided in the Iowa Supreme Court guidelines and the parent ordered to provide health insurance must provide verification of this expense or anticipated expense.

441—99.5(234,252B) Deviation from guidelines.

99.5(1) *Criteria for deviation.* The court will not vary from the amount of child support that would result from application of the guidelines without a written finding as required by the Iowa Supreme Court guidelines.

99.5(2) *Supporting financial and legal documentation.*

a. The party requesting a deviation from the guidelines must provide supporting documentation. The supporting documentation must include an itemized list identifying the amount and nature of each adjustment requested. Failure to provide supporting documentation for a request for deviation will result in a denial of the request.

b. Legal documents prepared for the court's approval, such as stipulations and orders for support, will include language to identify the following:

- (1) The amount of support calculated under the guidelines without allowance for deviations.
- (2) The reasons for deviating from the guidelines.
- (3) The amount of support calculated after allowing for the deviation.

99.5(3) *Depreciation.* A parent may request a deduction for depreciation of machinery, equipment, or other property used to earn income. Straight-line depreciation will be the only type of depreciation that will be allowed as a deduction. Child support services will allow the straight-line depreciation amount as a deduction if the parent provides documentation from a tax preparer verifying the amount of straight-line depreciation being claimed. Straight-line depreciation is computed by deducting the property's estimated salvage value from the cost of the property, and deducting that figure in equal yearly amounts over the period of the property's remaining estimated useful life.

99.5(4) *Foster care case.* In a foster care case, child support services may deviate from the guidelines by applying a 30 percent flat rate deduction for parents who provide financial documentation. The flat rate deduction represents expenses under the case permanency plan and financial hardship allowances or other circumstances contemplated in Iowa Code section 234.39.

Child support services will calculate the support obligation of the parents of children in foster care when the parents have a legal obligation for additional dependents in the home, as follows: The support obligation of each parent will be calculated by allowing all deductions the parent is eligible for under the child support guidelines as provided in rule 441—99.2(234,252B) and by using the guidelines schedule corresponding to the sum of the children in the home for whom the parent has a legal obligation and the children in foster care. The calculated support amount will be divided by the total number of children in foster care and in the home to compute the support obligation of the parent for each child in foster care.

99.5(5) *Negotiation of accrued support debt.* Child Support Services may negotiate with a parent to establish the amount of accrued support debt owed to the department. In negotiating accrued support, the state does not represent the custodial parent. The custodial parent may intervene at any time prior to the filing of the order to contest the amount of the debt or request the entry of a judgment in the parent's behalf that may otherwise be relinquished through negotiation or entry of a judgment.

441—99.6(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code sections 234.39, 252B.3, 252B.5, 252B.7A, and 598.21(4).

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8966C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rulemaking related to establishment of paternity and support**

The Department of Health and Human Services hereby rescinds Chapter 100, “Child Support Promoting Opportunities for Parents Program,” and adopts a new Chapter 100, “Establishment of Paternity and Support,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

This rulemaking is in response to Executive Order 10. This chapter sets process standards, some of which are not found in the Iowa Code, for Child Support Services when providing administrative or procedural services related to child support establishment. Previously titled “Child Support Promoting Opportunities for Parents Program,” which was moved to 441—Chapter 94, this chapter now contains Division II and Division III of 441—Chapter 99 and was retitled.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8561C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 100 and adopt the following new chapter in lieu thereof:

CHAPTER 100
ESTABLISHMENT OF PATERNITY AND SUPPORT

441—100.1(598,600B) Definitions.

“Disestablishment” means paternity that is legally overcome under the conditions specified in Iowa Code section 600B.41A, 232.3A, or 598.21E.

“Nonrequesting parent” means a parent who is not filing a petition to overcome paternity.

“Requesting parent” means a parent who files a petition to overcome paternity.

441—100.2(252A) Temporary support. If a court ordered a putative father to pay temporary support before entering an order making a final determination of paternity under Iowa Code section 252A.6A, but then the court determines that the putative father is not the legal father and enters an order terminating the temporary support, all the following apply:

100.2(1) Satisfaction of accrued support. Upon receipt of a file-stamped copy of the order terminating the support order, child support services will take the following actions concerning unpaid support assigned to the department:

- a. Child support services will satisfy only unpaid support assigned to the department.
- b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver or notice, child support services is not prevented from satisfying amounts due the department.
- c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court.

100.2(2) Previously collected moneys. Child support services will not return any moneys previously paid on the temporary support judgment.

441—100.3(252F) When paternity may be established administratively. Child support services may seek to administratively establish paternity and accrued or accruing child support and medical support obligations against an alleged father when the conditions specified in Iowa Code chapter 252F are met.

441—100.4(252F) Mother's certified statement. Before initiating an action under Iowa Code chapter 252F, child support services may obtain a form prescribed by the department or a similar document from the child's caretaker. Child support services will obtain a form prescribed by the department from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. Government records, including but not limited to an application for public assistance, that substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing a form prescribed by the department, the mother acknowledges that child support services may initiate a paternity action against the alleged father. The mother must sign and return the form prescribed by the department to child support services within ten days of the date of child support services' request.

441—100.5(252F) Notice of alleged paternity and support debt. Following receipt of a form prescribed by the department or government records, including but not limited to an application for

public assistance, that substantially meet the requirements of Iowa Code section 622.1, child support services will serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

441—100.6(252F) Conference to discuss paternity and support issues. A party may request a conference as provided in Iowa Code section 252F.3(1) with the office that issued the notice to discuss paternity establishment and the amount of support the father may be required to pay.

441—100.7(252F) Amount of support obligation. Child support services will determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

441—100.8(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—100.5(252F), a written statement contesting paternity to the address of child support services as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after child support services mailed her notice of the action or within 20 calendar days after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of child support services as set forth in the notice. When paternity is contested, or at child support services' initiative, child support services will issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing. If the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged father, the previously submitted specimens and prior results, if available, may be used for testing in this action.

441—100.9(252F) Paternity test results challenge. Either party or child support services may challenge the results of the paternity test by filing a written notice with the district court within 20 calendar days after child support services issues or mails the paternity test results to the parties. When a party challenges the paternity test results, and requests an additional paternity test, child support services will order an additional blood or genetic test, if the party requesting the additional test pays for the additional testing in advance. If the party challenges the first paternity test results, but does not request additional tests, child support services may order additional blood or genetic tests.

441—100.10(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with child support services on the entry of an order for support, the father may acknowledge his consent on a form prescribed by the department. If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, child support services may file the form, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

441—100.11(252F) Entry of order establishing paternity only. If a party requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, child support services will prepare an order establishing paternity and reserving the support issues for determination by the court. Child support services will present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

441—100.12(252F) Exception to time limit. Child support services may accept and respond to written requests for court hearings beyond the time limits allowed in this part.

441—100.13(252F) Genetic test costs assessed.

100.13(1) *Paternity established.* If genetic testing of an alleged father is conducted and that man is established as the child's father, child support services will assess the costs of the genetic testing to the father who denied paternity and enter an order for repayment of these costs.

100.13(2) *Paternity not established.* If genetic testing of an alleged father is conducted and that man is not established as the child's father, the costs of the genetic testing will not be assessed to any of the parties.

100.13(3) *Results contested.* If the results of the genetic testing are timely challenged and the challenging party requests additional testing, the party contesting the results must advance the cost of the additional testing. If the challenging party does not advance payment for the additional testing, child support services will certify the case to district court.

441—100.14(598,600B) Communication between parents. When a parent who has filed a petition to disestablish paternity requests assistance from child support services in contacting the other parent, child support services will take the following actions if services are being provided by child support services, the location of the nonrequesting party is known, and child support services has been provided a copy of the petition to disestablish paternity:

100.14(1) *Written contact.* Child support services will send written notification to the nonrequesting parent of the requesting parent's desire to disestablish paternity and of the requesting parent's whereabouts. The notice will state that the nonrequesting parent may cooperate in this action by filing a statement of the nonrequesting parent's current address or the name and address of the nonrequesting parent's attorney in the court file, or may contact the requesting parent with this information.

100.14(2) *Notification of requesting parent.* Child support services will provide notification to the requesting party that contact was made with the nonrequesting party and that the nonrequesting parent may file a statement in the court file or may contact the requesting parent directly.

441—100.15(598,600B) Continuation of enforcement. Child support services will continue all enforcement actions to collect current and accrued support as ordered until child support services receives a file-stamped copy of the order disestablishing paternity.

441—100.16(598,600B) Satisfaction of accrued support.

100.16(1) *Disestablishment orders entered before May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity that was entered before May 21, 1997, child support services will take the following actions concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department and only if:

(1) For actions under Iowa Code section 600B.41A or 232.3A, blood or genetic testing was done and a guardian ad litem was appointed for the child.

(2) For actions under Iowa Code section 598.21E, the written statement was filed and a guardian ad litem was appointed for the child.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, child support services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court. If the court later determines that paternity was incorrectly disestablished, child support services may attempt to reinstate and enforce the prior judgment.

100.16(2) *Disestablishment orders entered on or after May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity that was entered on or after May 21, 1997, child support services will take the following actions concerning unpaid support:

a. If the order also contains a provision satisfying unpaid support, child support services will adjust its records to show unpaid support is paid.

b. If the order does not contain a provision satisfying unpaid support, child support services will satisfy only unpaid support assigned to the department. Child support services will notify the party who petitioned the court for disestablishment that this is the only support child support services can satisfy.

(1) Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver notice, child support services is not prevented from satisfying amounts due the department.

(2) Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate court. If the court later determines that paternity was incorrectly disestablished, child support services may attempt to reinstate and enforce the prior judgment.

100.16(3) *Termination of paternity.* If the court entered an order dismissing a disestablishment of paternity action on or before May 21, 1997, this subrule applies. Upon receipt of a file-stamped copy of an order terminating paternity under the requirements of Iowa Code section 600B.41A, child support services will take the following actions concerning unpaid support assigned to the department:

a. Child support services will satisfy only unpaid support assigned to the department.

b. Child support services will ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, child support services is not prevented from satisfying amounts due the department.

c. Child support services will prepare the required documents to satisfy any amounts owed the department and will file them with the appropriate district court. If the court later determines that paternity was incorrectly terminated, child support services may attempt to reinstate and enforce the prior judgment.

100.16(4) *Previously collected moneys.* Child support services will not return any moneys previously paid on the judgment.

441—100.17(252C) Establishment of an administrative order.

100.17(1) *When order may be established.* The department may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude child support services from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, child support services may obtain a form prescribed by the department or a similar document from the child's caretaker.

100.17(2) *Support debt.* When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child's caretaker, a support debt is created and assigned to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

100.17(3) *Notice to responsible person.* When the department establishes a support debt against a responsible person, a notice of child support debt will be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26. The notice will include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice will also inform the responsible person that these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice will include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances will result in the entry of a default judgment for support.

100.17(4) *Negotiation conference.* The responsible person may, within ten calendar days after being served the notice of child support debt, request a negotiation conference with the office of child support services that sent the notice.

100.17(5) *Amount of support obligation.* Child support services will determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

- a. Any deviation from the guidelines will require a written finding by the department.
- b. Reserved.

100.17(6) Court hearing. Either the responsible person or child support services may request a court hearing regarding the establishment of a support obligation through the administrative process.

a. The request for a hearing by the responsible person must be in writing and sent to the office of child support services that sent the original notice of the support debt by the latest of the following:

- (1) Thirty days from the date of service of the first notice of support debt.
- (2) Ten days from the date of the negotiation conference.
- (3) Thirty days from the date the second notice and finding of financial responsibility is issued.
- (4) Ten days from the date of issuance of the conference report if the department does not issue a second notice and finding of financial responsibility after a conference was requested.

b. When a request for a court hearing is received from the responsible person, within the time limits allowed, or is made by child support services, the department will schedule or request that the hearing be scheduled in the district court in the county:

- (1) Where the dependent child resides if the child resides in Iowa.
- (2) Where the responsible person resides if the child for whom support is sought resides in another state or the sole purpose of the administrative order is to secure a judgment for the time period that public assistance was expended by the state on behalf of the family or child.

100.17(7) Exception to time limit. The department may accept and respond to written requests for a court hearing beyond the time limits allowed in this rule.

100.17(8) Entry of order. If no request for a hearing is received from the responsible person at the local office of child support services, or made by child support services, the department may prepare an order for support and have it presented ex parte to the court for approval.

a. The attorney for child support services will present the order and other documents supporting the entry of the ex parte order to the court for review and approval. Pursuant to Iowa Code chapter 252C, the court will approve the order unless defects appear in the order or supporting documents.

b. The department will file a copy of the approved order with the clerk of the district court.

c. The department will send a copy of the filed order by regular mail, to the caretaker's last-known address, to the responsible person's last-known address or the caretaker's or the responsible person's attorney pursuant to the provisions of Iowa Code chapter 252C within 14 days after approval and issuance of the order by the court.

100.17(9) Force and effect. Once the order has been signed by the judge and filed, it will have all the force and effect of an order or decree entered by the court. Unless otherwise specified, the effective date of the support obligation will be the twentieth day following the date the order is prepared by child support services.

100.17(10) Modification by department. The department may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

441—100.18(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapters 252C and 252F and sections 252A.6A, 598.21, and 600B.41A.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8967C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rulemaking related to adjustment and modification of support**

The Department of Health and Human Services hereby adopts new Chapter 101, “Adjustment and Modification of Support,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 252B and 252H.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 252B and 252H.

Purpose and Summary

This rulemaking is in response to Executive Order 10. This chapter sets process standards, some of which are not found in the Iowa Code, for child support services when reviewing and adjusting child support obligations. This is a new chapter that was previously Divisions IV and V of 441—Chapter 99 (additional divisions, beyond Divisions IV and V, have been restructured into new chapters).

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8556C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 441—Chapter 101:

CHAPTER 101
ADJUSTMENT AND MODIFICATION OF SUPPORT

441—101.1(252B,252H) Definitions.

“Additional child” means a child to be added to an existing support order covering another child of the same parents.

“Born of a marriage” means a child was born of a woman who was married at the time of conception, birth, or at any time during the period between conception and birth of the child pursuant to Iowa Code chapter 252A and section 144.13.

“Cost-of-living alteration” means the same as defined in Iowa Code section 252H.2.

“Guidelines” means the most current guidelines and criteria prescribed by the Iowa Supreme Court for determining the amount of child support to be awarded.

“Parent” means a person who is a responsible person or a caretaker, as those terms are defined in rule 441—95.1(252B).

“Recipient of service” means a person receiving foster care services, or a recipient of family investment program assistance or Medicaid benefits whose child support or medical support is assigned, or a person who is not receiving public assistance but who is entitled to child support enforcement services pursuant to Iowa Code section 252B.4.

“Substantial change of circumstances,” means:

1. There has been a change of 50 percent or more in the net income of a parent, as determined by comparing the new net income with the net income upon which the current child support obligation was based, and
2. The change is due to financial circumstances that have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months, pursuant to Iowa Code section 252H.18A.

441—101.2(252H) Confidentiality of financial information. Financial information provided to child support services by either parent for the purpose of facilitating the modification or review and adjustment processes may be disclosed to the other parties to the case, or the district court, as follows:

101.2(1) Financial statements. The financial statement or affidavit may be disclosed to either party.

101.2(2) Other documentation. Supporting financial documentation such as state and federal income tax returns, paycheck stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court unless otherwise prohibited by state or federal law.

441—101.3(252H) Payment of fees.

101.3(1) Payment of service of process and other costs associated with the modification or review and adjustment processes is the responsibility of the party requesting the action unless the court orders otherwise or the requesting party, as a condition of eligibility for receiving public assistance benefits, has assigned the rights to child or medical support for the order to be modified.

101.3(2) A requesting party who is indigent or receiving public assistance may request deferral of fees and costs. For the purposes of this chapter, “indigent” means that the requesting party’s income is 200 percent or less than the poverty level for one person as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 as amended to August 1, 2024.

441—101.4(252B,252H) Review of permanent child support obligations. Permanent child support obligations that are ongoing and being enforced by child support services or the child support agency of another state will be reviewed by child support services to determine whether or not to adjust the obligation. Child support services will determine the appropriate obligation amount using the child support guidelines. Iowa must have continuing, exclusive jurisdiction to modify the order under Iowa Code chapter 252K.

101.4(1) Periodic review. A permanent child support obligation being enforced by child support services and meeting the conditions in Iowa Code section 252H.12 may be reviewed upon the initiative of child support services if:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The support order does not already contain medical support provisions.

c. A review is otherwise necessary to comply with state or federal law.

101.4(2) Review by request. A review will be conducted upon the request of the child support agency of another state or upon the written request of either parent subject to the order submitted on a form prescribed by the department. One review may be conducted every two years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the filing date of the support order or most recent modification or the last completed review, whichever is later.

101.4(3) Review outcome.

a. Procedures to adjust the support obligation will be initiated only when the financial and other information available to child support services indicates that the:

(1) Present child support obligation varies from the Iowa Supreme Court mandatory child support guidelines by more than 20 percent, and

(2) Variation is due to a change in financial circumstances that has lasted at least three months and can reasonably be expected to last for an additional three months.

b. Procedures to modify a support order may be initiated when the order does not include provisions for medical support.

441—101.5(252B,252H) Notice requirements—review and adjustment. Child support services will provide written notification to each parent affected by a permanent child support obligation being enforced by child support services as follows:

101.5(1) Notice of right to request review. Child support services will notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification will be provided on forms prescribed by the department or through another printed or electronic format.

101.5(2) Notice of review. One of the following will apply:

a. At least 15 days before the review is conducted, child support services will serve notice of its intent to review the order on each parent affected by the child support obligation. This notice will include a request that the parties complete a financial statement and provide verification of income. The notice will be served in accordance with Iowa Code section 252B.26 or 252H.15.

b. If the conditions of Iowa Code section 252H.14A(1) are met, child support services may conduct a review using information accessible to child support services without:

(1) Issuing a notice under paragraph 101.5(2) “a,” or

(2) Requesting additional information from the parent.

101.5(3) Notice of decision. After child support services completes the review of the child support obligation in accordance with rule 441—101.4(252B,252H), child support services will issue a notice of decision in accordance with Iowa Code section 252H.14A or 252H.16 stating whether or not an adjustment is appropriate and, if so, child support services’ intent to enter an administrative order for adjustment.

101.5(4) Challenges to outcome of review. Each parent will be allowed to request a second review challenging the determination of child support services. The procedure for challenging the determination is as follows:

a. The parent challenging the determination must submit the request for a second review in writing to child support services stating the reasons for the request and providing written evidence necessary to support the challenge. The request must be submitted:

(1) Within 10 days from the date of a notice of decision issued pursuant to Iowa Code section 252H.16, or

(2) Within 30 days from service of a notice of decision issued pursuant to Iowa Code section 252H.14A.

b. Child support services will review the written evidence submitted with the request and all financial information available to child support services and make a determination of one of the following:

(1) To enter an administrative order for adjustment of the obligation.

(2) That adjustment of the child support obligation is inappropriate.

c. Child support services will send written notice of the outcome of the second review to each parent affected by the child support obligation at the parent's last-known mailing address.

d. For a review initiated under Iowa Code section 252H.15, if either parent disputes the second decision, the objecting parent may request a court hearing within 15 days from the date the notice of decision is issued or within 10 days of the date the second notice of decision is issued, whichever is later.

e. For a review initiated under Iowa Code section 252H.14A, either parent may request a court hearing within 10 days of the issuance of the second notice of decision.

f. If child support services receives a timely written request or child support services determines that a court hearing is necessary, child support services will certify the matter to the district court. An objecting parent may seek recourse by filing a private petition for modification through the district court.

441—101.6(252B,252H) Financial information—review and adjustment. Child support services will attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be reviewed necessary to conduct the review.

101.6(1) Financial statements. Except for a review initiated under Iowa Code section 252H.14A, both parents subject to the order to be reviewed must provide a financial statement and verification of income within ten days of service of the notice of child support services' intent to review the obligation. If a review is initiated under Iowa Code section 252H.14A and the first notice of decision is challenged as described in subrule 101.5(4), both parents will be requested to provide a financial statement and verification of income within ten days of child support services' request.

a. Verification of income will include but not be limited to the following: copies of state and federal income tax returns, W-2 statements, pay stubs, or a signed statement from an employer or other source of income.

b. Child support services may also request that the parent requesting review provide an affidavit regarding the financial circumstances of the nonrequesting parent when child support services is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent must complete the affidavit if the parent possesses sufficient information to do so.

101.6(2) Independent sources. Child support services may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed.

a. These resources include but are not limited to the following: the Iowa workforce development department, the Iowa department of revenue, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

b. In the absence of other verification of income and deductions allowed under the mandatory support guidelines, child support services may estimate the net earned income of a parent for the purpose of determining the amount of support that would be due under the guidelines by deducting 20 percent

from the gross earned income confirmed by an independent source. A parent may challenge this estimate by providing verification of actual earned income deductions.

101.6(3) *Availability of medical insurance.* Both parents subject to the order to be reviewed must provide documentation regarding the availability of health insurance coverage for the children covered under the order, and the cost of the coverage, within ten days of a written request by child support services. Verification may include but not be limited to: a copy of the health benefit plan including the effective date of the plan, a letter from the employer detailing the availability of health insurance, or any other source that will serve to verify health insurance information and the cost of the coverage.

441—101.7(252B,252H) Review and adjustment of a child support obligation.

101.7(1) *Conducting the review.* Child support services or its attorney will review the case for administrative adjustment of a child support obligation unless it is determined that any of the following exist:

- a. The location of one or both of the parents is unknown.
- b. The variation from the Iowa Supreme Court mandatory child support guidelines is based on any material misrepresentation of fact concerning any financial information submitted to child support services.
- c. The criteria of rule 441—101.4(252B,252H) are not met.
- d. The end date of the order is less than 12 months in the future or the youngest child is 17½ years of age.

101.7(2) *Civil action.* The review and adjustment action that is certified to court for hearing will proceed as an ordinary civil action in equity, and child support services attorney will represent the state of Iowa in those proceedings.

101.7(3) *Private counsel.* After the notice has been issued as described in subrule 101.5(2) or 101.5(3), any party may choose to be represented personally by private counsel. Any party who retains private counsel must notify child support services of this fact in writing.

441—101.8(252B,252H) Medical support—review and adjustment. Child support services, or its attorney, will review the medical support provisions contained in any permanent child support order that is subject to review under rule 441—101.7(252B,252H) and will include in any adjustment order a provision for medical support as defined in Iowa Code chapter 252E, and as set forth in 441—Chapter 98, or other appropriate provisions pertaining to medical support for all children affected directly by the child support order under review.

441—101.9(252B,252H) Denying requests—review and adjustment. A request for review by a parent subject to the order may be denied for the following reasons:

101.9(1) It has been less than two years since the support order was filed with the court, last modified, or last reviewed for the purpose of adjustment.

101.9(2) Child support services or a child support agency of another state is not providing enforcement services for an ongoing support obligation under the order for which the review has been requested.

101.9(3) The request is based entirely on issues such as custody, visitation, or parenting time rights, which are not directly related to child support.

101.9(4) The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

101.9(5) The request is for the review of a temporary support order.

441—101.10(252B,252H) Withdrawing requests — review and adjustment. If the requesting party contacts child support services to withdraw the request, child support services will proceed as follows:

101.10(1) *Consent of both parties.* Child support services will notify the nonrequesting party of the requesting party's desire to withdraw the request.

a. If the nonrequesting party indicates a desire to continue the review, child support services will proceed with the review and adjust the obligation, if appropriate.

b. If the nonrequestor indicates a desire to stop the process or fails to respond within ten days to the notification of the request to withdraw, child support services will notify all parties that the review and adjustment process has been terminated.

101.10(2) *Effect of withdrawal.* If a request is successfully withdrawn pursuant to subrule 101.10(1), a later request by either party will be subject to the limitations of subrule 101.4(2).

441—101.11(252H) Effective date of review and adjustment. Unless subject to court action or reconciliation of multiple Iowa orders, the new obligation amount will be effective on the first date that the periodic payment is due under the order being modified after child support services files the adjustment order with the court.

441—101.12(252H) Availability of service—administrative modification. Child support services will provide administrative modification services for a support order originally entered or a foreign order registered in the state of Iowa. The order must be one that:

101.12(1) Involves at least one child born of a marriage or one child for whom paternity has been legally established.

101.12(2) Is being enforced by child support services in accordance with Iowa Code chapter 252B.

101.12(3) Is subject to the jurisdiction of this state for the purposes of modification.

101.12(4) Is not subject to or is not appropriate for review and adjustment.

101.12(5) Provides for support of at least one child under the age of 18 or a child between the ages of 18 and 19 years who is engaged full-time in completing high school graduation or equivalency requirements in a manner that is reasonably expected to result in completion of the requirements prior to the person's reaching 19 years of age.

101.12(6) Has an obligation ending more than 12 months in the future.

101.12(7) Involves parents for whom the location of both parents is known.

441—101.13(252H) Modification of child support obligations. Permanent child support obligations meeting the criteria set forth in rule 441—101.12(252H) may be modified at the initiative of child support services, or upon written request of either parent subject to the order submitted on a form prescribed by the department. Any action will be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order will not be modified. The procedures used by child support services to determine if a modification is appropriate are as follows:

101.13(1) *Substantial change of circumstances.* Procedures to modify the support obligation may be initiated outside the minimum time frame described in subrule 101.4(2) if a request is received from either parent and if the parent has submitted verified documentation of a substantial change in circumstances that indicates both of the following:

a. A change of at least 50 percent in the net income of a parent as defined by guidelines. The new net income will be compared to the net income upon which the current child support obligation was based.

b. The change is due to financial circumstances that have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

Child support services will review the request and documentation and, if appropriate, issue a notice of intent to modify as described in subrule 101.14(1).

101.13(2) *Adding provisions for additional children.* Procedures to modify the support obligation may be initiated if:

a. A parent requests, in writing, or child support services determines that it is appropriate to add an additional child to the support order and modify the obligation amount according to the guidelines pursuant to Iowa Code sections 598.21B and 252B.7A; and

b. Paternity has been legally established.

When adding a child to an order through administrative modification, medical support provisions will apply to the additional child.

101.13(3) *Reserved, zero-dollar-amount, or medical-provisions-only orders.* Procedures to modify the support obligation may be initiated if:

- a. A parent requests a modification in writing or child support services determines that it is appropriate to include a support amount based on the guidelines; and
- b. The original order:
 - (1) Reserved establishment of an ongoing, dollar-amount support obligation giving a specific reason other than lack of personal jurisdiction over the obligor, or
 - (2) Set the amount at zero, or
 - (3) Was for medical provisions only.

101.13(4) *Corrections.* Procedures to modify the support obligation may be initiated if:

- a. An error or omission pertaining to child support or medical provisions was made during preparation or filing of a support order; and
- b. A necessary party requests a modification or child support services determines that a modification to correct an error or omission is appropriate.

101.13(5) *Noncompliance by minor obligors.* The unit may initiate procedures to modify a support order if a parent requests modification in writing or the unit determines that it is appropriate when:

- a. An obligor who is under 18 years of age fails to comply with the requirement to attend parenting classes pursuant to Iowa Code section 598.21G; or
- b. An obligor who is 19 years of age or younger fails to provide proof of compliance with education requirements described in Iowa Code section 598.21B(2) “e”; or
- c. The obligor no longer meets the age requirements as defined in Iowa Code section 598.21B(2) “e” or 598.21G.

101.13(6) *Cost-of-living alteration.* A support order may be modified to provide a cost-of-living alteration if all the following criteria are met:

- a. Those criteria established in Iowa Code section 252H.23.
- b. At least two years have passed since the order was filed with the court or last reviewed, modified, or altered.
- c. The current support order addresses medical support for the children.
- d. A copy of each affected order is provided, if child support services does not already have copies in its files.

441—101.14(252H) **Notice requirements—administrative modification.** Child support services will provide written notification to parents affected by a permanent child support obligation being enforced by child support services as follows:

101.14(1) *Notice of intent to modify.* When a request for administrative modification is received or child support services initiates an administrative modification, child support services will provide written notice to each parent of its intent to modify.

- a. The notice will include the legal basis and purpose for the action; a request for income or other information necessary for the application of guidelines (if applicable); an explanation of the legal rights and responsibilities of the affected parties, including time frames; and procedures for contesting the action.

- b. Child support services will take the following actions to notify parents:

- (1) If the modification is based on subrules 101.13(1) through 101.13(5), notice will be provided to each parent. The notice will be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26 or 252H.19.

- (2) If the modification is based on provision of a cost-of-living alteration as established at subrule 101.13(6) and the required documentation is included, child support services will notify each parent of the amount of the cost-of-living alteration by regular mail to the last-known address of each parent or, if applicable, each parent’s attorney. The notice will include:

1. The method of determining the amount of the alteration pursuant to Iowa Code section 252H.21.

2. The procedure for contesting a cost-of-living alteration by making a request for review of a support order as provided in Iowa Code section 252H.24.

3. A statement that either parent may waive the 30-day notice waiting period. If both parents waive the notice waiting period, child support services may prepare an administrative order altering the support obligation.

101.14(2) *Notice of decision to modify.* Child support services will issue a notice of its decision to modify the support order to each parent affected by the support obligation at each parent's (or attorney's) last-known address. The notice will contain information about whether child support services will continue or terminate the action and the procedures and time frames for contesting the action by requesting a court hearing pursuant to subrule 101.16(2).

441—101.15(252H) Financial information—administrative modification. Child support services may attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be modified that is necessary to conduct an analysis and determine support. Child support services does not require financial information if the request is for a cost-of-living alteration.

101.15(1) *Financial statements.* Parents subject to the order must provide a financial statement and verification of income within ten days of a written request by child support services.

a. If the modification action is based on a substantial change of circumstances:

(1) The requesting party must provide a form prescribed by the department, and documentation that proves the amount of change in net income and the date the change took place, such as:

1. Copies of state and federal income tax returns, W-2 statements, or pay stubs, or
2. A signed statement from an employer or other source of income.

(2) Child support services will review the request and documentation. If appropriate, child support services will issue to each parent a notice of intent to modify the order as stated in subrule 101.14(1) and a financial statement. Each parent must complete and sign the financial statement and return it to child support services with verification of income and deductions as described in subrule 99.1(3).

b. Child support services may require a completed and signed financial statement and verification of income from each parent as described in subrule 99.1(3) if the modification is based on:

- (1) Addition of a child;
- (2) Changing a reserved or zero-dollar-amount obligation;
- (3) Changing a medical-provisions-only obligation;
- (4) Making a correction (if financial information is needed); or
- (5) Noncompliance by a minor obligor as defined in Iowa Code section 598.21B(2)“e” or 598.21G.

c. Child support services may also request that a parent requesting a modification provide an affidavit regarding the financial circumstances of the nonrequesting parent when child support services is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent must complete the affidavit if the parent possesses sufficient information to do so.

d. Child support services may also use occupational wage rate information or the median income for parents on child support services' caseload to determine the gross income of a parent when a parent has failed to return a completed financial statement when requested and complete and accurate information is not readily available from other sources.

e. Self-employment income will be determined as described in subrule 99.1(5).

101.15(2) *Independent sources.* Child support services may use other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be modified as described in rule 441—99.1(234,252B,252H).

101.15(3) *Guidelines calculations.* Child support services will determine:

a. The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B,252H) through 441—99.5(234,252B), and

b. Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.2(252E) through 441—98.5(252E) and 441—75.14(249A).

441—101.16(252H) Challenges to the proposed modification action. For modification actions based on subrules 101.13(1) through 101.13(5), each parent will have the right to request a conference to contest the proposed modification. Either parent, or child support services, may also request a court hearing. For requests made based on subrule 101.13(6), either parent may contest the cost-of-living alteration by making a request for a review and adjustment of the support order.

101.16(1) Conference. Either parent may contest the proposed modification based on subrules 101.13(1) through 101.13(5) by means of a conference with the office of child support services that issued the notice of intent to modify.

- a. Only one conference will be held per parent.
- b. The request must be made within ten days of the date of service of the notice of intent to modify.
- c. The office that issued the notice of intent to modify will schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference.
- d. Reasons for contesting the modification include but are not limited to mistake of fact regarding the identity of one of the parties or the amount or terms of the modification.
- e. Child support services may conduct the conference in person or by telephone.
- f. If the party who requested the conference fails to attend the conference, only one alternative time will be scheduled by child support services.
- g. The results of a conference will in no way affect the right of either party to request a court hearing pursuant to subrule 101.16(2).
- h. Upon completion of the conference, child support services will issue a notice of decision to modify as described in subrule 101.14(2).

101.16(2) Court hearing.

a. Either parent, or child support services, may contest the proposed modification, based on subrules 101.13(1) through 101.13(5), by requesting a court hearing within the latest of any of the following time periods:

- (1) Twenty days from the date of successful service of the notice of intent to modify,
- (2) Ten days from the date scheduled for a conference, or
- (3) Ten days from the date of issuance of a notice of decision to modify.

b. If child support services receives a timely written request, child support services will certify the matter to the district court as described in Iowa Code section 252H.8.

c. If a timely request is not received, if waiting periods have been waived, or if the notice periods have expired, child support services will prepare an administrative order as provided in Iowa Code section 252H.9.

101.16(3) Contesting a proposed cost-of-living alteration. Either parent may contest a cost-of-living alteration within 30 days of the date of the notice of intent to modify by making a request for a review of the support order as provided in Iowa Code section 252H.13.

a. If child support services receives a timely written request for review, child support services will terminate the cost-of-living alteration process and proceed with the review and adjustment process.

b. If a timely request is not made, or the notice waiting period has been waived by both parties, or the notice period has expired, child support services will prepare an administrative order as provided in Iowa Code section 252H.24.

441—101.17(252H) Misrepresentation of fact—administrative modification.

101.17(1) Child support services will not modify the support order based on a substantial change of circumstances if a change in income is due to any material misrepresentation of fact concerning any financial information submitted to child support services.

101.17(2) Child support services may request verification that all facts concerning financial information are true. Verification may include but is not limited to a statement from the employer, a doctor, or other person with knowledge of the situation.

441—101.18(252H) Effective date of modification. Unless subject to court action or reconciliation of multiple Iowa orders, the new obligation will be effective on the first date that the periodic payment is due under the order being modified after child support services files the modification order with the court. If the modification is based on a reserved, zero-dollar-amount, or medical-provisions-only obligation, the new obligation will be effective 20 days after generation of the administrative modification order.

441—101.19(252H) Denying requests—administrative modification. A request for modification by a parent subject to the order may be denied if the criteria in rule 441—101.12(252H) are not met or the following conditions exist:

101.19(1) *Nonsupport issues.* The request is based entirely on issues such as custody, visitation, or parenting time rights.

101.19(2) *Request only for delinquent support.* The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

101.19(3) *Temporary order.* The request is for the modification of a temporary support order.

101.19(4) *Two-year time frame.* The request is for a cost-of-living alteration and it has been less than two years since the order was filed with the court or last reviewed, modified, or altered.

101.19(5) *Change of circumstances.* The request is based on a substantial change in circumstances and:

a. The requestor's net income has not changed by at least 50 percent, as required in paragraph 101.13(1) "a," or

b. The requestor has not provided adequate documentation of the change in income, as required in subrule 101.15(1), or

c. The change in income has not yet lasted for three months, as required in paragraph 101.13(1) "b," or

d. The change in income is not expected to last another three months, as required in paragraph 101.13(1) "b," or

e. The change in income is due to material misrepresentation of fact, as explained in rule 441—101.17(252H).

441—101.20(252H) Withdrawing requests—administrative modification. If the requesting party contacts child support services to withdraw the request, child support services will notify the nonrequesting party of the requesting party's desire to withdraw the modification request. If the nonrequesting party indicates, in writing, a desire to continue with the modification process, child support services will proceed, and if appropriate, modify the support order. If there is no response from the nonrequesting party or if the nonrequesting party also wants the process to end, child support services will end the modification process. If child support services initiated the modification action, child support services may terminate the process if, after notifying both parents, neither parent indicates a desire to continue with the modification.

441—101.21(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 252H and sections 252B.5, 252B.7, and 598.21C(2).

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8968C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rulemaking related to suspension and reinstatement of support**

The Department of Health and Human Services hereby adopts new Chapter 102, “Suspension and Reinstatement of Support,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 252B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 252B.

Purpose and Summary

This rulemaking is in response to Executive Order 10. This chapter sets process standards, some of which are not found in the Iowa Code, for Child Support Services when suspending and reinstating child support. This chapter was previously Division VI of 441—Chapter 99 (additional divisions, beyond Division VI, have been restructured into new chapters).

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8558C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 29, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 441—Chapter 102:

CHAPTER 102
SUSPENSION AND REINSTATEMENT OF SUPPORT

441—102.1(252B) Definitions.

“*Caretaker*” means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

“*Child*” means the same as defined in Iowa Code section 252E.1.

“*Obligee*” means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

“*Obligor*” means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

“*Public assistance*” means the same as defined in Iowa Code section 252H.2.

“*Spousal support*” means either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

“*Step change*” means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

“*Support*” means the same as defined in Iowa Code section 252D.16 and will include support for a child.

“*Support for a child*” means either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

“*Support order*” means the same as a “court order” as defined in Iowa Code section 252C.1.

441—102.2(252B) Availability of service—suspension by mutual consent. Child support services will provide suspension by mutual consent only with respect to support orders entered or registered in this state for which child support services is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

102.2(1) Suspension by mutual consent will only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under Iowa Code chapter 252K.

102.2(2) Suspension by mutual consent will be provided only if no prior request for suspension of all or part of a support order has been filed with child support services pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by child support services pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

441—102.3(252B) Basis for suspension of support by mutual consent.

102.3(1) *Reconciliation.* Child support services will assist an obligor and obligee in suspending support for a child and, if contained in a child support order, spousal support, when the obligor and obligee are reconciled and are residing together, with at least one child entitled to support under the order, in the same household.

102.3(2) *Change in residency.* Child support services will assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, child support services will not assist in suspending any spousal support provisions of a support order on this basis.

Child support services will also assist an obligor and obligee in suspending support for a child residing with a caretaker who has not requested services, if the child is not receiving public assistance.

102.3(3) *Affected children.* Child support services will assist an obligor and obligee in suspending by mutual consent all or part of a support order if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

- a.* If the basis for suspension applies to all of the children, child support services will assist in suspending support obligations for all of the children.
- b.* If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, child support services will assist in suspending the support obligations for children for whom the basis for suspension applies.

102.3(4) *Limited to current support.* The provisions for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

102.3(5) *Duration of conditions.* The basis for suspension of support as provided in subrule 102.3(2) and subrule 102.3(3) must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by child support services.

441—102.4(252B) Request for assistance to suspend by mutual consent.

102.4(1) *Submitting a request.* The obligor and obligee subject to a support order being enforced by child support services may request that child support services assist in having the ongoing support provisions suspended as follows:

- a.* A request for suspension must be submitted to child support services using a request and affidavit form prescribed by the department.
- b.* Child support services will provide the request and affidavit form prescribed by the department to the obligor and obligee upon request.
- c.* Both forms must be signed by both the obligor and the obligee affected by the order to be suspended. In the event that current support payments are assigned to an individual or entity other than the obligee named in the original order, but may revert to the original obligee at a future date without court action, both the original obligee and the current assignee must sign both forms.
- d.* The affidavit form prescribed by the department must be notarized.
- e.* The request must contain sufficient information to allow child support services to identify the court order and parties involved, and a statement that the obligor and obligee expect the basis for suspension to continue for not less than six months.
- f.* If the obligor and obligee are requesting suspension of more than one order at the same time, the obligor and obligee will be required to submit only one copy of the request form prescribed by the department, identifying each order the request involves; however, the obligor and obligee will be required to submit a separate, signed and notarized affidavit form prescribed by the department for each order.

102.4(2) *Denying a request.* Child support services will issue a written notice to the obligor and obligee indicating that a properly completed request is denied.

- a.* This notice will be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.
- b.* If the basis for suspension is reconciliation, one notice will be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice will be issued to the obligor and obligee at their respective last-known addresses.
- c.* The notice denying a request will indicate the reason for denial.
- d.* A request for suspension will be denied when the conditions specified in Iowa Code section 252B.20 or rule 441—102.2(252B) or 441—102.3(252B) are not met.

441—102.5(252B) Order suspending support by mutual consent. To approve a request to suspend support, child support services will prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

102.5(1) When the basis for suspension is reconciliation, the suspension will apply to any ongoing support provisions of the order, including medical support, with respect to any child residing with the parents and with respect to any spouse or former spouse entitled to support under the order to be suspended.

102.5(2) When the basis for suspension is a change in residency of one or more of the children entitled to support, the suspension will apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor. Any spousal support also ordered in the same support order will remain unaffected by this action.

102.5(3) A copy of the filed order will be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

441—102.6(252B) Suspension of enforcement of current support—suspension by mutual consent. Child support services will suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. Child support services will continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—102.7(252B) Availability of service—suspension by payor's request. Child support services will provide suspension by payor's request only with respect to support orders entered pursuant to Iowa Code chapter 252A, 252C or 252F for which child support services is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

102.7(1) Suspension by payor's request will only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order pursuant to Iowa Code chapter 252K.

102.7(2) Suspension by payor's request will be provided only if no prior request for suspension of all or part of a support order has been filed with child support services pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by child support services pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

441—102.8(252B) Basis for suspension of support by payor's request.

102.8(1) *Child residing with obligor or caretaker.* Child support services will assist an obligor in suspending support for a child residing with the obligor or with a caretaker who has not requested unit services, if the child has been residing with the obligor or caretaker for more than 60 consecutive days.

102.8(2) *Orders eligible for suspension.*

a. Child support services will assist an obligor in suspending support for a child only when there is no order in effect regarding legal custody, physical care, visitation, or parenting time for the child.

b. If an order exists that contains language regarding legal custody, physical care, visitation, or parenting time for the child, child support services will deny the suspension request.

102.8(3) *Children on public assistance.* The children for whom ongoing support is being suspended must not be receiving public assistance pursuant to Iowa Code chapter 239B or 249A or a comparable law of another state or foreign country, or if the children are receiving public assistance, the obligor must be considered to be a member of the same household as the children for the purposes of public assistance eligibility.

102.8(4) *Duration of conditions.* The basis for suspension of support must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by child support services.

102.8(5) *Affected children.* Child support services will assist an obligor in suspending by payor's request all or part of a support order if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, child support services will assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, child support services will assist in suspending the support obligations for children for whom the basis for suspension applies.

102.8(6) *Limited to current support.* The provisions for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

441—102.9(252B) Request for assistance to suspend by payor's request. The obligor subject to a support order being enforced by child support services may request that child support services assist in having the ongoing support provisions suspended as follows:

102.9(1) *Submitting a request.*

a. A request for suspension must be submitted to child support services using a form prescribed by the department.

b. Child support services will provide the request form prescribed by the department to the obligor upon request.

c. The request form must be signed by the obligor affected by the order to be suspended.

d. The request must contain sufficient information to allow child support services to identify the court order and parties involved and must attest that the children have lived in the obligor's household or the caretaker's household for more than 60 consecutive days and are expected to live there for at least six months.

102.9(2) *Submitting an affidavit.* After receiving a valid request for suspension, child support services will provide the requestor with an affidavit form prescribed by the department.

a. The obligor must submit the affidavit for suspension to child support services. If the request for suspension is made pursuant to Iowa Code section 252B.20A(17), the caretaker must also submit an affidavit form prescribed by the department.

b. The affidavit prescribed by the department must be signed, attesting to the existence of the conditions under subrules 102.8(1) through 102.8(4). The affidavit must be notarized.

c. If the obligor is requesting suspension of more than one order at the same time, the obligor will be required to submit only one copy of the request form prescribed by the department, identifying each order the request involves; however, the obligor will be required to submit a separate, signed and notarized affidavit form prescribed by the department for each order.

441—102.10(252B) Determining eligibility for suspension by payor's request. Upon receipt of the request for suspension and the properly executed and notarized affidavit, child support services will review the request and the affidavit to determine that the criteria have been met.

102.10(1) *If the criteria are not met.* If the criteria have not been met, child support services will issue a written notice to the obligor indicating that the request is denied.

a. The notice will be sent by first-class regular mail to the last-known address of the obligor or, if applicable, to the last-known address of the obligor's attorney.

b. The notice will indicate the reason for denial and notify the obligor of the right to proceed through private counsel.

102.10(2) *If the criteria are met.* If the criteria are met, child support services will proceed as follows:

a. Child support services will serve forms prescribed by the department and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee will include all of the following:

(1) Information sufficient to identify the parties and the support order affected.

- (2) An explanation of the procedure for suspension and reinstatement of support in this chapter.
- (3) An explanation of the rights and responsibilities of the obligee to respond to the action.
- (4) A statement that, within 20 days of service, the obligee must submit a signed and notarized response to child support services objecting to at least one of the assertions in subrules 102.8(1) through 102.8(4). The statement will inform the obligee that if, within 20 days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding Rules of Civil Procedure 1.972(2) and 1.972(3), child support services will prepare and submit an order.

b. No sooner than 30 days after service on the obligee, child support services will do one of the following:

- (1) If the obligee submits a signed and notarized objection to at least one of the assertions in subrules 102.8(1) through 102.8(4), deny the request and notify the parties in writing that the request is denied, providing reasons for the denial, and notifying the parties of the right to proceed through private counsel.
- (2) If the obligee cannot be served, child support services will issue a written notice to the obligor indicating the request is denied, following the procedure described in subrule 102.10(2).
- (3) If the obligee does not timely submit a signed and notarized objection to child support services, prepare an order following the procedure described in rule 441—102.11(252B).

441—102.11(252B) Order suspending support by payor’s request. After approving a request to suspend support and properly serving the obligee, child support services will prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20A.

102.11(1) The suspension will apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor or caretaker.

102.11(2) A copy of the filed order will be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor’s or obligee’s attorney.

441—102.12(252B) Suspension of enforcement of current support—suspension by payor’s request. Child support services will suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. Child support services will continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

441—102.13(252B) Request for reinstatement. Child support services may request that the court reinstate the suspended support obligation in accordance with the procedures found in Iowa Code sections 252B.20 and 252B.20A.

102.13(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to child support services. The request must indicate that reinstatement is being requested and the reason for reinstatement and must contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

102.13(2) Child support services may, at its own initiative, request that the court reinstate a support obligation when it is determined that a child for whom the obligation was suspended is receiving public assistance benefits.

102.13(3) Child support services will issue a written notice approving or denying the request to any obligor or obligee requesting reinstatement. This notice will be sent by first-class regular mail to the last-known address of the requesting party and will indicate any reason for denial.

102.13(4) A properly completed request for reinstatement will be denied when any of the following conditions exist:

- a.* The request is made by someone other than the obligor, the obligee, or the obligor’s or obligee’s attorney.
- b.* Child support services is no longer providing enforcement services for the suspended order.

- c. The request is received more than six months after the date of the filing of the order suspending support.
- d. The request is for partial reinstatement of the suspended support order for some but not all of the children, and the order does not contain a step change.
- e. A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under Iowa Code chapter 252K.

441—102.14(252B) Reinstatement. Child support services will follow the procedures in Iowa Code sections 252B.20 and 252B.20A in seeking to have the court reinstate a support order.

102.14(1) Child support services will request that the court reinstate a spousal support provision previously suspended if the provision was included in the suspension in accordance with subrule 102.5(1) and if child support services receives a properly completed request from the obligor or the obligee.

102.14(2) Child support services will seek to have the previously suspended support for a child reinstated when the conditions in paragraph 102.14(2)“a” or “b” are met. This provision will not prohibit any party, including child support services, from taking other action to establish support as provided for by law.

- a. The basis for suspension no longer applies to any of the children for whom support was suspended; or
- b. The basis for suspension continues to apply to some but not all of the children for whom support was suspended, and there is a step change in the order.

441—102.15(252B) Reinstatement of enforcement of support. If a suspended support obligation is reinstated, child support services will also reinstate all appropriate enforcement measures to enforce all reinstated ongoing support provisions of the support order.

441—102.16(252B) Temporary suspension becomes final. The temporary suspension of a support order under this chapter will become final if not reinstated in accordance with Iowa Code sections 252B.20 and 252B.20A.

441—102.17(17A) Right of appeal. Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 252B.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8969C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to payments for foster care

The Department of Health and Human Services hereby amends Chapter 156, “Payments for Foster Care,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 234.38 and 2024 Iowa Acts, House File 2698.

Purpose and Summary

2024 Iowa Acts, House File 2698, stated that funds appropriated shall be used to increase foster care reimbursement rates by 5 percent over the rates in effect on June 30, 2024. These amendments establish the new rate for maintenance payment for foster family care. They also modify the timeline to receive kinship caregiver payments.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8469C**. A public hearing was held on the following date(s):

- January 15, 2025
- January 17, 2025

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 Department on January 31, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond that of the underlying legislation.

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 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 156.6(1) as follows:

156.6(1) Basic rate. A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule:

<u>Age of child</u>	<u>Daily rate</u>
0 through 5	\$16.78 ~~\$17.62~~
6 through 11	\$17.45 ~~\$18.32~~

12 through 15	~~\$19.10~~ <u>\$20.06</u>
16 or over	~~\$19.35~~ <u>\$20.32</u>

ITEM 2. Amend rule 441—156.7(234) as follows:

441—156.7(234) Kinship caregiver payment.

156.7(1) A kinship caregiver payment is a monthly payment to financially support the care of a child in a kinship caregiver’s home. If approved by the department, kinship caregiver payment will be provided for a period of up to ~~six~~ four months.

156.7(2) All of the following conditions apply:

a. For each eligible child living in a kinship placement, a caregiver will receive ~~up to \$310 (\$10 per day)~~ a monthly payment according to the basic rate schedule in subrule 156.6(1) as a result of a court-ordered placement.

b. The payment will begin after ~~two consecutive months~~ 14 days of the child’s placement in the kinship caregiver’s home. The ~~two-month~~ 14-day requirement is waived if the child enters the kinship caregiver’s home immediately following a paid placement for at least 30 days.

c. The payment will continue for up to ~~six~~ four months.

d. and *e.* No change.

This rule is intended to implement Iowa Code section 232.102.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8901C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to multifamily housing

The Iowa Finance Authority hereby rescinds Chapter 3, “Multifamily Housing,” 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 16.5 and 16.5C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 16.5C.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding and adopting a new Chapter 3. The chapter describes the policies and procedures applicable to the Multifamily Loan Program. The purpose of the program is to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state. This chapter also includes a multifamily loan program specifically for workforce housing loan assistance. The new chapter will be more concise and reflect current program policies regarding eligible applicants, eligible projects, and loan 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 8232C**. A public hearing was held on the following date(s):

- October 22, 2024
- October 24, 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 Authority Board on December 11, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3 MULTIFAMILY HOUSING

265—3.1(16) Purpose. Through the multifamily loan program (program) established pursuant to this chapter, the authority seeks to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state.

265—3.2(16) Application procedure. Applications will be reviewed by the authority upon receipt.

265—3.3(16) Eligibility.

3.3(1) Eligible applicants. As determined by the authority, to be eligible for a loan under the program, applicants shall:

- Demonstrate a market need for the units.
- Agree to observe certain compliance measures, including a recorded agreement to ensure long-term affordability.
- Obtain a local contributing effort in an amount of up to 1 percent of the proposed loan when requested by the authority.
- Agree to a change of management, general partner, or managing member when requested by the authority.

- e.* Agree to Multifamily Accelerated Processing (MAP) of the U.S. Department of Housing and Urban Development (HUD), when requested by the authority.
- f.* Agree to participate in the HUD Risk-Sharing Program, when requested by the authority.
- g.* Execute such documents and instruments as may be required by the authority.
- h.* Provide such information, certificates and other items requested by the authority.
- i.* Obtain a title guaranty certificate from the authority's title guaranty division protecting the authority's interest in the real property securing the loan, including any endorsements required by the authority, unless specifically waived by the authority.

3.3(2) Eligible projects. As determined by the authority, to be eligible for a loan under the program, projects shall:

- a.* Be financially feasible for at least the term of the assistance.
- b.* Have adequately funded replacement and operating reserve funds.
- c.* Consist of at least five housing units.
- d.* For the term of the loan, reserve at least 75 percent of the housing units for tenants whose income is at or below 80 percent of the area median income and whose rent is no more than 30 percent of the income of a family whose annual income is 80 percent or less of the area median income.

3.3(3) Loan terms.

- a.* Loans under this program may have a maximum loan term of 24 months for construction financing and 40 years for permanent financing.
- b.* Other terms and conditions of loans under this program may vary from project to project.

3.3(4) Maximum loan fees are as follows:

- a.* Commitment fee (construction period) - 1.0 percent of total development costs.
- b.* Commitment fee (permanent loan) - 2.0 percent of loan amount.
- c.* Inspection fee (construction period) - \$500 per inspection; inspections will typically occur with each draw or on a monthly basis during construction.
- d.* Application fee - 0.3 percent of proposed loan amount.
- e.* Asset management fee - calculated as \$25 per unit × number of total project units; submitted annually on or before January 31.
- f.* The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program.

265—3.4(16) Multifamily loan program for workforce housing loan assistance.

3.4(1) *Eligible applicants.* To be eligible for a loan under this rule (the "primary loan"), applicants shall:

- a.* Be an Iowa city or county (the "borrower").
- b.* Agree to use the primary loan proceeds to make a loan to a third party to build housing in the applicant's jurisdiction that meets the requirements of this rule and subrules 3.3(1), 3.3(3), and 3.3(4) (the "secondary loan").

3.4(2) *Eligible projects.* As determined by the authority, to be eligible for a loan under this rule, projects shall:

- a.* Be financially feasible for at least the term of the assistance.
- b.* Have adequately funded replacement and operating reserve funds.
- c.* Consist of at least five housing units.
- d.* For the term of the loan, reserve at least 50 percent of the housing units rehabilitated or created with the proceeds of the secondary loan for families whose annual income at the time of leasing is at or below 120 percent of the area median income and whose rent is no more than 30 percent of the income of a family whose annual income is 120 percent or less of the area median income unless the authority agrees otherwise.
- e.* Preference shall be given to cities and counties that can document an increased need for housing as the result of new job creation within the city's or the county's jurisdiction.

3.4(3) *Loan terms.*

- a.* The primary loan is a general obligation of the borrower, but may be unsecured.

b. The borrower shall use funds received in repayment of the secondary loan first to make the scheduled principal and interest payments on the primary loan. Any secondary loan payments remaining after all then-due scheduled payments on the primary loan have been repaid may be reloaned by the borrower on the same basis as if such secondary loan payment amounts were proceeds of the primary loan.

265—3.5(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of directors of the authority. Meeting the eligibility criteria in these rules is not a guaranty of receiving funds. Authority staff will determine the necessary and appropriate procedures and processes for underwriting and analysis to further the purposes of this program. In addition, the authority anticipates that because of the complex nature of each transaction, and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program, as such may be revised from time to time.

These rules are intended to implement Iowa Code section 16.5C(1).

[Filed 1/27/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8902C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to rescission of chapters

The Iowa Finance Authority hereby rescinds Chapter 12, “Low-Income Housing Tax Credits,” Chapter 20, “Senior Living Revolving Loan Program,” Chapter 22, “Iowa Aftercare Services Rent Subsidy Program,” Chapter 23, “Transitional Housing Revolving Loan Program,” Chapter 31, “Council on Homelessness,” Chapter 36, “Public Service Shelter Grant Fund,” and Chapter 40, “Iowans Helping Iowans Housing Assistance Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 16.2D, 16.5, 16.35, 16.40 and 16.48 and 2009 Iowa Acts, Senate File 376.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.2D, 16.35, 16.40, 16.46 and 16.48 and 2009 Iowa Acts, Senate File 376.

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Authority is permanently rescinding the following obsolete and unnecessary chapters:

- Chapter 12, which describes the policies applicable to the low-income housing tax credit (LIHTC) administered by the Authority. 2024 Iowa Acts, Senate File 2387, amended Iowa Code section 16.35 so that the Authority is no longer required to adopt rules specifying the application procedure and allowance of LIHTC. Those aspects of program administration are addressed in the qualified allocation

plan (QAP) adopted by the Authority pursuant to Internal Revenue Code Section 42 and the applicable Treasury regulations.

- Chapter 20, which describes the policies and procedures applicable to the Senior Living Revolving Loan Program. The policies and procedures of the program are established pursuant to Iowa Code section 16.46, and the applicable QAP adopted by the Authority pursuant to Iowa Code section 16.35.

- Chapter 22, which describes the policies and procedures applicable to the Iowa Aftercare Services Rent Subsidy Program. The program was discontinued effective June 30, 2024.

- Chapter 23, which describes eligibility requirements and administration of the Transitional Housing Revolving Loan Program Fund. The fund assisted in the development of affordable housing for parents completing or participating in substance use disorder treatment pursuant to Iowa Code section 16.48. The ongoing obligations of two loan recipients are addressed in a comprehensive loan agreement. The requirements of the program are sufficiently described in Iowa Code section 16.48 if there is interest in the fund in the future, and the Iowa Code section does not require the authority to promulgate rules.

- Chapter 31, which describes the council on homelessness and its duties. 2024 Iowa Acts, Senate File 2385, amended Iowa Code section 16.2D to eliminate the council and assign its duties to the Authority.

- Chapter 36, which describes the Public Service Shelter Grant Fund. The fund was established pursuant to 2009 Iowa Acts, Senate File 376, section 28, and discontinued in 2011.

- Chapter 40, which describes the Iowans Helping Iowans Housing Assistance Program. The program was established to provide financial assistance to eligible residents for the purpose of either repairing or rehabilitating eligible residents' disaster-affected homes or to purchase a home. The last loan issued under this program was in 2012, and loan agreements issued under this program have expired.

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 8233C**. A public hearing was held on the following date(s):

- October 22, 2024
- October 24, 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 Authority Board on December 11, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

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 March 26, 2025.

The following rulemaking action is adopted:

- ITEM 1. Rescind and reserve **265—Chapter 12.**
- ITEM 2. Rescind and reserve **265—Chapter 20.**
- ITEM 3. Rescind and reserve **265—Chapter 22.**
- ITEM 4. Rescind and reserve **265—Chapter 23.**
- ITEM 5. Rescind and reserve **265—Chapter 31.**
- ITEM 6. Rescind and reserve **265—Chapter 36.**
- ITEM 7. Rescind and reserve **265—Chapter 40.**

[Filed 1/27/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8903C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to home- and community-based services rent subsidy program

The Iowa Finance Authority hereby rescinds Chapter 24, "Home And Community-Based Services Rent Subsidy Program," and adopts a new Chapter 24, "Home- and Community-Based Services Rent Subsidy Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 16.5 and 16.55.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 16.55.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 24 and adopting a new chapter in lieu thereof. The chapter describes the Home- and Community-Based Services Rent Subsidy Program. The program is designed to provide rent assistance to help participants in certain other programs live in the community.

The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms and updates outdated language. Additionally, the following changes are adopted:

- Existing rule 265—24.4(16) is updated to be consistent with the current application and approval process for the program.
- Existing rule 265—24.5(16) is updated to replace references to "applicants" with references to "recipients." The rule also clarifies that payments may be made directly to a recipient's landlord.

- Existing rule 265—24.7(16) is updated to be consistent with current program practices relating to termination of payments.

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 8231C**. A public hearing was held on the following date(s):

- October 22, 2024
- October 24, 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 Authority on December 11, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24

HOME- AND COMMUNITY-BASED SERVICES RENT SUBSIDY PROGRAM

265—24.1(16) Definitions.

“*Applicant*” means a person aged 18 or over who participates in one of the home- and community-based services waiver programs, habilitation services, or Money Follows the Person.

“*Authority*” means the Iowa finance authority created in Iowa Code section 16.1A.

“*Habilitation services*” means an Iowa Medicaid program designed to provide home- and community-based services to Iowans with the functional impairments typically associated with chronic mental illnesses.

“*Home- and community-based services waiver program*” means any of the waiver programs administered by the department of health and human services under the provisions set forth in 441—Chapter 83, the habilitation services waiver, or Money Follows the Person.

“Housing Choice Voucher program” or “HCV program” means the federal government’s program created in the Housing and Community Development Act of 1974, 42 U.S.C. Ch. 69, §5301 et seq. (1974).

“HUD” means the U.S. Department of Housing and Urban Development.

“Legal guardian” means a person lawfully invested with the power, and charged with the obligation, of taking care of and managing the property and rights of a recipient who, because of age, understanding, or self-control, is considered incapable of administering the recipient’s own affairs.

“Money Follows the Person” or “MFP” means Iowa’s Money Follows the Person partnership for community integration program.

“Program” means the home- and community-based rent subsidy program as defined and structured under this chapter.

“Qualified dependent” means the applicant’s child who is claimed as a dependent of the applicant for federal income tax purposes.

“Qualified rental unit” means a housing unit subject to the provisions of Iowa Code chapter 562A and for which a signed written rental agreement exists.

“Recipient” means an applicant approved for and receiving rent subsidy payments under the program.

“Representative payee” means a person who is appointed for a recipient unable to receive and manage the recipient’s own benefits due to mental or physical impairments. The representative payee is to use the benefits in the recipient’s best interest and is personally liable for misuse of funds.

265—24.2(16) Eligibility requirements.

24.2(1) *Demonstrated need.* An eligible applicant will demonstrate need for rent subsidy by meeting all of the following requirements:

- a. The applicant will provide a copy of an executed rental agreement showing the applicant as a tenant, with signatures by the landlord and the applicant or the applicant’s legal guardian;
- b. The applicant will provide evidence that the applicant pays more than 30 percent of the applicant’s gross income for rent, with a minimum contribution of \$25 per month;
- c. The applicant will not receive any other rental assistance while receiving rent subsidy payments under the program;
- d. The applicant will not use this program to substitute for any other ongoing rent subsidy being received at the time of application to this program; and
- e. The applicant’s rental unit must be a qualified rental unit and must not be owned by someone who lives in the unit.

24.2(2) *Ineligible for other rent subsidies.* An eligible applicant for rent subsidy payments under this program will have been determined ineligible for the HCV program, be on the HCV program waiting list, or document that the HCV program waiting list is closed. If the HCV waiting list is currently closed, the applicant is responsible for monitoring the status of the waiting list application period and must apply at the first available opportunity and provide documentation of an HCV application submission to the local public housing authority. If the authority determines an applicant failed to apply for HCV at the first available opportunity, the authority may remove the applicant from the program or the program waiting list.

265—24.3(16) Application. Applications for the program may be obtained on the authority’s website. An applicant shall complete the application and provide all required documentation. For the purposes of this rule, the application date means the date the completed application, including all required documentation, is received by the authority.

24.3(1) The authority will review each completed application and determine whether the applicant is eligible for the program. The applicant may elect to have any of the following notified: legal guardian, case manager or representative payee.

24.3(2) The authority will maintain and administer a statewide waiting list for the program. When an application is received, the applicant will be placed on the waiting list according to the application date unless the provisions of Iowa Code section 16.55 apply.

24.3(3) When funding allows additional applicants to be added to the program, the authority will request updated documentation from the next applicant on the waiting list, and each applicant's eligibility will be determined based upon the updated documentation. If the completed application is not received by the deadline specified by the authority, the applicant may be removed from the waiting list. If the authority determines an applicant is eligible for the program, the authority will notify the applicant of the amount of monthly rent subsidy within 30 days of making the determination.

265—24.4(16) Rent subsidy.

24.4(1) *Use of subsidy.* Assistance shall be used for rental expense.

24.4(2) *Maximum monthly payment for rent.* Assistance for rent will be equal to the lesser of the rent paid by the recipient or the current applicable fair market rent as published by HUD for the area where the recipient's residence is located, less 30 percent of the recipient's gross monthly income. The fair market rent used will be that for a one-bedroom unit or a proportionate share of the fair market rent in living units containing more than one bedroom. When the recipient resides with one or more qualified dependents, the proportionate share may consist of additional bedrooms, applying the same maximum monthly payment standard.

24.4(3) *Monthly payment.* Recipients approved for rent subsidy payments will receive an ongoing monthly payment equal to the amount determined pursuant to subrule 24.4(2). Payments may be made on behalf of a recipient directly to the recipient's landlord.

265—24.5(16) Redetermination of eligibility.

24.5(1) *Time of completion.* A redetermination of eligibility for rent subsidy payments will be completed annually unless one of the following conditions occurs:

- a. A change in circumstances that affects eligibility in accordance with rule 265—24.2(16).
- b. The recipient moves from the residence stated on the approved application.
- c. There is a change greater than \$100 in the recipient's gross monthly income.

24.5(2) *Renewal notice.* The authority will send a renewal notice to the recipient and, if applicable, the recipient's legal guardian, case manager or representative payee at least 30 days before the annual redetermination deadline. The renewal notice will specify the annual redetermination deadline and the documentation that must be submitted to the authority.

a. The recipient shall submit the completed application and required documents to the authority as directed on the application.

b. If the authority does not receive the completed application and required documents by the annual redetermination deadline, the recipient's rent subsidy will be terminated.

265—24.6(16) Termination of rent subsidy payments.

24.6(1) *Reasons for termination.* The authority may terminate the rent subsidy at the end of a month in which any of the following occur:

- a. The recipient does not meet one or more of the eligibility criteria listed in rule 265—24.2(16).
- b. The recipient fails to submit documentation required pursuant to subrule 24.5(2) by the deadline established by the authority.
- c. Rent subsidy program funds are exhausted for the fiscal year.
- d. The recipient, case manager, legal guardian or representative payee threatens physical violence or injury toward authority staff.
- e. The recipient provides false information.
- f. The recipient, legal guardian or representative payee misuses rent subsidy payments for purposes other than rent assistance.
- g. The recipient is not in compliance with any other programs offered or administered by the authority while receiving rent subsidy payments.

24.6(2) *Notification to recipient.* If the authority terminates a recipient's rent subsidy, the authority will notify the recipient in writing.

24.6(3) *Reporting of changes.* The recipient or the recipient's legal guardian or representative payee, as applicable, is required to report to the authority any changes that may affect eligibility within ten business days of the occurrence of the change, including changes in circumstance listed under subrule 24.5(1). Failure to do so may result in the recipient's responsibility to repay rent subsidy funds dating back to the recipient's failure to report the change and termination of the rent subsidy.

These rules are intended to implement Iowa Code section 16.55.

[Filed 1/27/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8882C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to boiler and pressure vessel board administrative and regulatory authority

The Labor Services Division hereby rescinds Chapter 80, "Boiler and Pressure Vessel Board Administrative and Regulatory Authority," 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 89.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 80 in accordance with the goals and directives of Executive Order 10 and adopts a new Chapter 80. Chapter 80 describes the authority and conduct of the Boiler and Pressure Vessel 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 8364C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 80 and adopt the following **new** chapter in lieu thereof:

BOILERS AND PRESSURE VESSELS

CHAPTER 80

BOILER AND PRESSURE VESSEL BOARD
ADMINISTRATIVE AND REGULATORY AUTHORITY

875—80.1(89) Definitions. The definitions contained in this rule apply to 875—Chapters 80 through 96.

“Board” means the boiler and pressure vessel board.

“Board office” means the offices of the department of inspections, appeals, and licensing.

“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.

875—80.2(89) Authority of the board. The authority and responsibilities of the board include but are not limited to the following:

80.2(1) Adopting rules necessary to protect public safety and health and to administer the duties of the board.

80.2(2) Hearing and deciding appeals concerning boiler and pressure vessel inspection reports.

80.2(3) Establishing fees.

80.2(4) Establishing committees of the board.

875—80.3(89) Organization of board officers. The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after July 1 of each year. Neither the commissioner nor the commissioner's designee may serve as chairperson. The chairperson presides at meetings, appoints committees, and performs all duties and exercises all powers of the chairperson. The vice chairperson, in the absence or incapacity of the chairperson, performs all duties and exercises all powers of the chairperson.

875—80.4(21,89) Public meetings.

80.4(1) The board shall hold at least one meeting each calendar quarter.

80.4(2) Board meetings are governed in accordance with Iowa Code chapter 21, and the board's proceedings are conducted in accordance with Robert's Rules of Order.

80.4(3) The chairperson or the chairperson's designee will prepare an agenda listing all matters to be discussed at the meeting.

80.4(4) A majority of the members of the board constitute a quorum, and all final motions and actions must receive a majority of a quorum vote.

80.4(5) Members of the public may be present during board meetings unless the board votes to hold a closed session in accordance with Iowa Code chapter 21. The dates and locations of board meetings may be obtained from the board's website or the board office.

80.4(6) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person when a particular topic comes before the board may be granted at the discretion of the chairperson. The chairperson may limit total public comment time to ten minutes.

80.4(7) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

875—80.5(89) Official communications. All official communications, including submissions and requests, go to the Boiler and Pressure Vessel Board, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

These rules are intended to implement Iowa Code chapters 21 and 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8883C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to boiler and pressure vessel board waivers

The Labor Services Division hereby rescinds Chapter 81, "Waivers from Administrative Rules by the Boiler and Pressure Vessel Board," and adopts a new Chapter 81, "Boiler and Pressure Vessel Board Waivers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89.14.

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 81. Chapter 81 sets forth procedures for the Boiler and Pressure Vessel Board to grant waivers.

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 8365C**. 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 22, 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, pursuant to 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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81
BOILER AND PRESSURE VESSEL BOARD WAIVERS

875—81.1(17A,89) Criteria for waiver. In response to a petition completed 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 as applied to an identified person on the basis of the particular circumstances of that person if the board finds, based on clear and convincing evidence, all of the following:

81.1(1) The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

81.1(2) The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

81.1(3) The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

81.1(4) Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

875—81.2(17A,89) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

81.2(1) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding using the caption of the contested case.

81.2(2) *Other.* If the petition does not relate to a pending contested case, the petition may be submitted with a caption containing the name of the person for whom the waiver is requested.

81.2(3) *Filing petition.* A petition is deemed filed when it is received in the board's office. A petition and related materials for consideration should be sent to the Boiler and Pressure Vessel Board, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

875—81.3(17A,89) Content of petition. The required form for a petition for waiver is available on the department's website. A petition for waiver shall include the following information where applicable and known to the petitioner:

81.3(1) The name, address, and telephone number of the entity or person for whom a waiver is being requested; the case number of or other reference to any related contested case; and the name, address, and telephone number of the petitioner's legal representative, if any.

81.3(2) A description of and citation referencing the specific rule from which a waiver is requested.

81.3(3) The specific waiver requested, including the precise scope and duration.

81.3(4) The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 875—81.1(17A,89). This statement shall 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.

81.3(5) A history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and the petitioner relating to the boiler or pressure vessel affected by the proposed waiver.

81.3(6) The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver.

81.3(7) The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition.

81.3(8) The state boiler identification number of the relevant object.

875—81.4(17A,89) Notice. The board will acknowledge a petition within 10 days of its receipt in the board office and ensure that notice of the pending petition has been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. 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 to provide a written statement to the board attesting that notice has been provided.

875—81.5(17A,89) Board review procedures.

81.5(1) Unless the board makes other arrangements, petitions for waiver will be reviewed and may be granted or denied at the next scheduled board meeting following receipt of the petition. However, if the petition is received less than three weeks prior to the scheduled board meeting, the petition will be reviewed at the following meeting.

81.5(2) The petitioner will be provided a reasonable opportunity to make a presentation to the board.

875—81.6(17A,89) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to any petition for a waiver filed within a contested case but otherwise apply to board proceedings for a waiver only when the board so provides by order or is required to do so by statute.

875—81.7(17A,89) Ruling. An order granting or denying a waiver will be in writing and contain a reference to the particular person or legal entity 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 duration of the waiver if one is issued.

81.7(1) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a rule.

81.7(2) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

81.7(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.

81.7(4) *Conditions.* The board may place on a waiver any condition that the board finds desirable to protect the public health, safety, and welfare.

81.7(5) *Time period of waiver.* A waiver will not be permanent unless the petitioner can show that a temporary waiver would be impracticable. A waiver may be renewed if the board finds that grounds for a waiver continue to exist.

81.7(6) *Time for ruling.* The board will grant or deny a petition for a waiver as soon as practical 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 shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

81.7(7) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period will be deemed a denial of that petition by the board.

81.7(8) *Service of order.* Within 14 days of the ruling, any order issued under this rule will be transmitted or delivered 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.

81.7(9) *Posting of orders granting waivers.* The order or a copy of the order granting a waiver shall be conspicuously and permanently posted in the room where the object is installed.

875—81.8(17A,89) Public availability. All orders granting or denying a waiver petition will be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3.

875—81.9(17A,89) Submission of waiver information. Information about all orders granting or denying a waiver petition will be submitted by the board staff to the legislative services agency through the designated Internet site within 60 days of granting or denying the petition. The information submitted is available to the public via the department's website.

875—81.10(17A,89) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and review, the board issues an order finding any of the following:

81.10(1) 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

81.10(2) The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

81.10(3) The subject of the waiver order has failed to comply with all conditions contained in the order.

875—81.11(17A,89) Violations. Violation of a condition in a waiver order is a violation of the particular rule for which the waiver was granted. The recipient of a waiver under this rule 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.

875—81.12(17A,89) 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 chapters 17A, 22, and 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8884C**LABOR SERVICES DIVISION[875]****Adopted and Filed****Rulemaking related to boiler and pressure vessel board petitions for rulemaking**

The Labor Services Division hereby rescinds Chapter 82, “Boiler and Pressure Vessel Board Petitions for Rule Making,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 82 in accordance with the goals and directives of Executive Order 10. This chapter is being rescinded because procedures for rulemaking by the Boiler and Pressure Vessel Board will now be in a different chapter applicable to 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 8363C**. 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 22, 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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 82**.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8885C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to declaratory orders

The Labor Services Division hereby rescinds Chapter 83, "Declaratory Orders by the Boiler and Pressure Vessel Board," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 83 in accordance with the goals and directives of Executive Order 10. This chapter is being rescinded because procedures for declaratory orders by the Boiler and Pressure Vessel 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 8380C**. 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 22, 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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 83**.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8886C

LABOR SERVICES DIVISION[875]**Adopted and Filed****Rulemaking related to contested cases**

The Labor Services Division hereby rescinds Chapter 84, "Contested Cases Before the Boiler and Pressure Vessel Board," 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 89.14.

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 84 that sets forth procedures for the Boiler and Pressure Vessel Board to conduct contested cases.

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 8382C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 84 and adopt the following new chapter in lieu thereof:

CHAPTER 84

CONTESTED CASES BEFORE THE BOILER AND PRESSURE VESSEL BOARD

875—84.1(17A,89) Reconsideration of inspection report. The owner or operator of a piece of equipment subject to a written inspection report may petition the director for reconsideration of the report within 30 days of the issuance of the report. Failure to seek timely reconsideration of the inspection report from the director is a waiver of all appeal rights under Iowa Code section 89.14(6). The burden of demonstrating compliance with all applicable statutory provisions, administrative rules, and ASME code sections rests upon the petitioning owner or operator.

84.1(1) A petition for reconsideration must be signed by the requesting party or a representative of that party. The required form for a petition for reconsideration is available on the board's website. A petition for reconsideration shall specify:

- a. The party seeking reconsideration, including mailing address and telephone number;
- b. The location of the equipment subject to the challenged inspection report;
- c. The inspection date;
- d. The inspector who issued the challenged inspection report;
- e. The specific findings or conclusions to which exception is taken;
- f. The relief sought.

84.1(2) A copy of the challenged inspection report shall be attached to the petition for reconsideration along with all relevant documents that the petitioning party desires the director to consider when evaluating the petition.

84.1(3) The director or a designee of the director is authorized to seek additional information relating to a petition for reconsideration from the petitioning party or any other entity possessing

information the director deems relevant to the petition. This subrule, however, does not impose any responsibility or duty on the director to discover documents or other information that was not submitted with the petition for reconsideration.

84.1(4) Any petition for reconsideration that is not received by the office of the director within 30 days of the issuance of the challenged inspection report is untimely and will not be considered by the director.

84.1(5) Requests for waivers of administrative rules may only be made to the board pursuant to the provisions of 875—Chapter 81.

84.1(6) In ruling on a petition for reconsideration, the director may:

- a. Affirm the inspection report as issued;
- b. Issue an amended inspection report;
- c. Rescind the inspection report;
- d. Deny the petition as untimely.

84.1(7) Any petition for reconsideration that is not ruled upon by the director within 20 days of receipt by the office of the director is denied by the director and the challenged inspection report will be considered affirmed as issued.

875—84.2(17A,89) Appeal to the board. The director's ruling on a petition for reconsideration or the director's deemed denial of a petition for reconsideration may be appealed to the board. An appeal must be filed in writing with the board within 30 calendar days of the earlier of either the issuance of the director's written ruling on a petition for reconsideration or the director's deemed denial of a petition for reconsideration. At a minimum, an appeal includes a short and concise statement of the basis for the appeal. The required form for an appeal is available on the board's website. Consideration of an appeal of a ruling on a petition for reconsideration is a contested case proceeding subject to the provisions of Iowa Code chapter 17A. The director has an automatic right of intervention in any appeal of the ruling on petition for reconsideration and may defend the ruling in a contested case proceeding.

875—84.3(17A,89) Informal review. If the appellant requests an informal review and the director does not object, the board may conduct an informal review of the facts and circumstances subject to the provisions of this rule.

84.3(1) In order to preserve the ability of board members to participate in decision making, parties who desire participation in an informal review must therefore waive their right to seek disqualification of a board member based solely on the board member's participation in the informal review. Parties would not be waiving their right to seek disqualification on any other ground. By electing to participate in informal review, a party accordingly agrees that a participating board member is not disqualified from acting as a presiding officer in a later contested case proceeding.

84.3(2) The board may propose a preliminary order at the time of informal review. If a party does not consent to the preliminary order, a party must submit a request to proceed with formal contested case proceedings, including hearing, within ten days of the informal review.

84.3(3) Rules 875—84.4(17A,89) through 875—84.31(17A,89) do not apply during informal review.

875—84.4(17A,89) Delivery of notice. Delivery of the notice of hearing by the board constitutes the commencement of a contested case proceeding. Delivery may be executed by regular mail. The notice shall be delivered to the appellant, the appellant's attorney, if known, and the director.

875—84.5(17A,89) Contents of notice. The notice of hearing will contain a statement of the time, place, and nature of the hearing and a brief statement of the matters asserted. It is the appellant's burden on appeal to prove compliance with all applicable statutory provisions, administrative rules, and ASME code sections. The notice shall contain a reference to the applicable statute and rules.

875—84.6(17A,89) Scope of issues. Only those issues raised before the director in the petition for reconsideration will be considered preserved for appeal to the board.

875—84.7(17A,89) File transmitted to the board. Upon receipt of a notice of hearing issued by the board, the director shall within 30 days forward to the board and all parties of record to the appeal copies of the challenged inspection report, the appellant's petition for reconsideration and all supporting documents, all other documents collected by the director in ruling on the petition for reconsideration, and the director's ruling on the petition for reconsideration.

875—84.8(17A,89) Legal representation. Any private party to a contested case is entitled to legal representation at the discretion and expense of that party.

875—84.9(17A,89) Presiding officer.

84.9(1) The presiding officer in all contested cases is the board, a panel of board members, or an administrative law judge assigned by the department of inspections, appeals, and licensing. When board members act as presiding officer, they conduct the hearing and issue either a final decision or, if a quorum of the board is not present, a proposed decision. The board may be assisted by an administrative law judge when the board acts as presiding officer.

84.9(2) Any party to a contested case that 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 the presiding officer as the board. 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 to protect the public health, safety, or welfare.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interboard appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

84.9(3) The board shall 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 granted, the administrative law judge assigned to act as presiding officer and to issue a proposed decision in a contested case will have a J.D. degree unless this requirement is waived by the board.

84.9(4) The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, or drafting the written decision for review by the board or board panel.

84.9(5) All rulings by an administrative law judge who acts either as presiding officer or assistant to the board are subject to appeal to the board pursuant to rules 875—84.26(17A,89) and 875—84.27(17A,89). A party must timely seek intra-agency appeal of prehearing rulings or proposed decisions to exhaust adequate administrative remedies. While a party may seek immediate board or board panel review of rulings made by an administrative law judge when sitting with and acting as an aid to the board or board panel during a hearing, such immediate review is not required to preserve error for judicial review.

84.9(6) Unless otherwise provided by law, when reviewing a proposed decision of a panel of the board or an administrative law judge, board members have the powers of and shall comply with the provisions of this chapter that apply to presiding officers.

875—84.10(17A,89) Service and filing.

84.10(1) *Service—when required.* Except where otherwise provided by law, when a document is filed in a contested case proceeding, it shall be served upon each of the parties of record. Except for the

original notice of hearing and an application for rehearing as provided in Iowa Code chapter 17A, the party filing a document is responsible for service on all parties.

84.10(2) Service—how made. Service upon a party represented by an attorney is made upon the attorney unless otherwise ordered. Service is made by personal 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.

84.10(3) Filing—when required. After the notice of hearing, all documents in a contested case proceeding will be filed with the board office.

84.10(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.

84.10(5) Proof of mailing. Proof of mailing includes either:

- a. A legible United States Postal Service postmark on the envelope;
- b. A certified mail return receipt;
- c. A notarized affidavit; or
- d. 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 Boiler and Pressure Vessel Board, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, 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.

(Date)

(Signature)

875—84.11(17A,89) Time requirements.

84.11(1) Time is to be computed as provided in Iowa Code section 4.1(34).

84.11(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer affords all parties an opportunity to be heard or to file written arguments.

875—84.12(17A,89) 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 the board deems the waiver to be inconsistent with the public interest.

875—84.13(17A,89) Telephone and electronic proceedings. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Parties shall disclose at or before the prehearing conference if any witness will be testifying by telephone. Any objections are filed with the board and served on all parties at least three business days in advance of hearing.

875—84.14(17A,89) Disqualification.

84.14(1) A presiding officer or other person shall 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.

84.14(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 board 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 shall be disclosed if required by Iowa Code section 17A.17(3) and subrule 84.25(7).

84.14(3) In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

84.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 84.14(1), the party files 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.

84.14(5) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

84.14(6) If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 875—84.26(17A,89) and seek a stay under rule 875—84.30(17A,89).

875—84.15(17A,89) Consolidation and severance.

84.15(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.

84.15(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

875—84.16(17A,89) Discovery.

84.16(1) Pursuant to Iowa Code chapter 17A, discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery are governed by the Iowa Rules of Civil Procedure.

84.16(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the matter with the opposing party. Motions in regard to discovery are ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened by order of 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.

875—84.17(17A,89) Subpoenas in a contested case. Pursuant to Iowa Code section 17A.13(1), the board or the presiding officer acting on behalf of the board has the authority to issue subpoenas to compel the attendance of witnesses at depositions or hearings and to compel the production of professional records, books, papers, correspondence and other records that are deemed necessary as evidence in connection with a contested case. A subpoena issued in a contested case under the board's authority may seek evidence whether or not privileged or confidential under law.

84.17(1) Upon the written request of a party, the presiding officer shall issue a subpoena to compel the attendance of witnesses or to obtain evidence that is deemed necessary in connection with a contested case. A command to produce evidence may be joined with a command to appear at deposition or hearing or may be issued separately.

84.17(2) A request for a subpoena shall include the following information, as applicable:

- a. The name, address and telephone number of the person requesting the subpoena;
- b. The name and address of the person to whom the subpoena is directed;
- c. The date, time and location at which the person is commanded to attend and give testimony;
- d. Whether the testimony is requested in connection with a deposition or hearing;
- e. A description of the books, papers, records or other evidence requested;
- f. The date, time and location for production, or inspection and copying.

84.17(3) Each subpoena shall contain, as applicable:

- a. The caption of the case;
- b. The name, address and telephone number of the person who requested the subpoena;
- c. The name and address of the person to whom the subpoena is directed;
- d. The date, time and location at which the person is commanded to appear;
- e. Whether the testimony is commanded in connection with a deposition or hearing;
- f. A description of the books, papers, records or other evidence the person is commanded to produce;
- g. The date, time and location for production, or inspection and copying;
- h. The time within which a motion to quash or modify the subpoena must be filed;
- i. The signature, address and telephone number of the presiding officer;
- j. The date of issuance;
- k. A return of service attached to the subpoena.

84.17(4) The presiding officer shall mail or otherwise provide copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

84.17(5) Any person who is aggrieved or adversely affected by compliance with the subpoena or any party to the contested case 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.

84.17(6) Upon receipt of a timely motion to quash or modify a subpoena, the board chairperson shall request an administrative law judge to hold a hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge may quash or modify the subpoena or deny the motion.

84.17(7) 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 to the board, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law

judge. If the decision of the administrative law judge to quash or modify the subpoena or to deny the motion to quash or modify the subpoena is appealed to the board, the board may uphold or overturn the decision of the administrative law judge.

84.17(8) If the person contesting the subpoena is not the party whose appeal is the subject of the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the party whose appeal is the subject of the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

875—84.18(17A,89) Motions.

84.18(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.

84.18(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

84.18(3) The presiding officer may schedule oral argument on any motion.

84.18(4) Motions pertaining to the hearing, except 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 board or an order of the presiding officer.

84.18(5) Motions for summary judgment comply with the requirements of Iowa Rule of Civil Procedure 1.981 and are subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases. Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion files and serves a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 875—84.29(17A,89) and appeal pursuant to subrule 84.27(3).

875—84.19(17A,89) Settlements. A contested case may be resolved by informal settlement, and settlements are encouraged. Settlement negotiations may be initiated at any stage of a contested case by any party. The board shall not be involved in negotiation until a written proposed settlement is submitted for approval, unless the parties waive this prohibition.

875—84.20(17A,89) Prehearing conference.

84.20(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 is filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date. Written notice of the prehearing conference is given by the presiding officer to all parties. For good cause, the presiding officer may permit variances from this rule.

84.20(2) Each party shall 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.

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.

c. 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.

84.20(3) In addition to the requirements of subrule 84.20(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.

84.20(4) Prehearing conferences are conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

875—84.21(17A,89) Continuances. Unless otherwise provided, applications for continuances are made to the presiding officer.

84.21(1) A written application for a continuance shall:

- a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance will be made or granted without notice to all parties except in an emergency where notice is not feasible. The presiding officer may waive notice of such requests for a particular case or an entire class of cases.

84.21(2) In determining whether to grant a continuance, the presiding officer may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

875—84.22(17A,89) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. Unless otherwise provided, a withdrawal is with prejudice.

875—84.23(17A,89) Hearing procedures.

84.23(1) The presiding officer has the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections.

84.23(2) All objections shall be timely made and stated on the record.

84.23(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

84.23(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.

84.23(5) The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

84.23(6) Witnesses may be sequestered during the hearing.

84.23(7) The presiding officer shall conduct the hearing in the following manner:

- a. The presiding officer gives an opening statement briefly describing the nature of the proceedings.

- b.* The parties are given an opportunity to present opening statements.
- c.* The parties present their cases in the sequence determined by the presiding officer.
- d.* Each witness is sworn or affirmed by the presiding officer or the court reporter, and is 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, the parties may be given the opportunity to present final arguments.
- f.* The presiding officer may enter a default judgment against a party who fails to appear at the hearing.

84.23(8) The presiding officer has the right to question a witness. Examination of witnesses by the presiding officer is subject to properly raised objections.

84.23(9) The hearing is open to the public, except as otherwise provided by law.

84.23(10) Oral proceedings will be electronically recorded. Upon request, the board shall provide a copy of the whole or any portion of the audio recording at a reasonable cost. A certified shorthand reporter may be engaged to record the proceeding at the request of a party and at the expense of the party making the request. A transcription of the record of the hearing will be made at the request of either party at the expense of the party making the request. The parties may agree to divide the cost of the transcription.

84.23(11) Default.

a. If no continuance was granted and a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. 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.

c. Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board 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 subrule 84.27(3). 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 attached, sworn affidavit of a person with personal knowledge of the fact.

d. 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.

e. 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.

f. "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

g. 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.

h. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case will proceed accordingly.

i. 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.

875—84.24(17A,89) Evidence.

84.24(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.

84.24(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

84.24(3) Evidence in the proceeding shall be confined to the contested issues as identified in the notice of hearing.

84.24(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.

84.24(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall 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.

84.24(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 shall 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.

875—84.25(17A,89) Ex parte communication.

84.25(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall 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. Nothing in this rule is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, 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.

84.25(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 before the board.

84.25(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

84.25(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 shall be provided 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.

84.25(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

84.25(6) 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 shall notify other parties when seeking to continue hearings or other deadlines.

a. If the presiding officer determines that disqualification is warranted, the following shall be submitted for inclusion in the record under each seal by protective order:

- (1) A copy of any prohibited written communication,
- (2) All written responses to the communication,
- (3) A written summary stating the substance of any prohibited oral or other communication not available in written form and all responses made, and
- (4) The identity of each person from whom the presiding officer received a prohibited ex parte communication.

b. If the presiding officer determines that disqualification is not warranted, such documents shall 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.

84.25(7) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall 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.

84.25(8) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule. Violation of ex parte communication prohibitions by staff will be reported to the board and to the director.

875—84.26(17A,89) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the administrative law judge, such as a ruling on a motion to quash a subpoena or other prehearing motion. In determining whether to do so, the board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of the interlocutory order at the time of the issuance of a final decision 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 date for compliance with the order or the date of hearing, whichever is earlier.

875—84.27(17A,89) Decisions.

84.27(1) *Proposed decision.* Decisions issued by a panel of less than a quorum of the board or by an administrative law judge are proposed decisions. A proposed decision issued by a panel of the board or an administrative law judge becomes a final decision if not timely appealed by any party or reviewed by the board.

84.27(2) *Final decision.* When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. A copy of the final decision and order shall immediately be sent by certified mail to the appellant's last-known post office address or may be served as in the manner of original notices. Copies shall be mailed by interoffice mail or first-class mail to the counsel of record.

84.27(3) *Appeals and review.*

a. *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

b. *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.

c. *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 shall specify:

- (1) The parties initiating the appeal;
- (2) The proposed decision or order appealed from;
- (3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- (4) The relief sought;
- (5) The grounds for relief.

d. 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.

e. Scheduling. The board will issue a schedule for consideration of the appeal.

f. 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 shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall 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.

g. Record. The record on appeal or review will be the entire record made before the hearing panel or administrative law judge.

875—84.28(17A,89) Contested cases with no factual disputes. 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.

875—84.29(17A,89) Applications for rehearing.

84.29(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

84.29(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought.

84.29(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

84.29(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

84.29(5) *Disposition.* The board may meet telephonically to consider an application for rehearing. Any application for a rehearing is denied unless the board grants the application within 20 days after its filing.

875—84.30(17A,89) Stays of board actions.

84.30(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 shall be filed with the notice of appeal and state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the administrative law judge 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 shall state the reasons justifying a stay or other temporary remedy.

84.30(2) *When granted.* In determining whether to grant a stay, the presiding officer or board shall consider the factors listed in Iowa Code section 17A.19(5) "c."

84.30(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

875—84.31(17A,89) Judicial review. Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.

84.31(1) Consistent with Iowa Code section 17A.19(3), if a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the board's final decision. The board's final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order.

84.31(2) If a party does file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the application for rehearing is denied or deemed denied. An application for rehearing is denied or deemed denied as provided in subrule 84.29(5).

These rules are intended to implement Iowa Code chapters 17A and 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8893C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to public records and fair information practices

The Labor Services Division hereby rescinds Chapter 85, "Public Records and Fair Information Practices of the Boiler and Pressure Vessel Board," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 85 in accordance with the goals and directives of Executive Order 10. Chapter 85 is being rescinded because public records and fair information practices of the Boiler and Pressure Vessel Board will be in a different chapter applicable to programs in the Department of Inspections, Appeals, and Licensing, the new location of the 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 8381C**. 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 22, 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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 85**.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8887C

LABOR SERVICES DIVISION[875]**Adopted and Filed****Rulemaking related to the administration of the boiler and pressure vessel program**

The Labor Services Division hereby rescinds Chapter 90, "Administration of the Boiler and Pressure Vessel Program," 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 89.14.

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 90 that sets forth the authority of the Elevator, Boiler and Amusements Bureau to inspect, grant permits, enforce safety requirements, and assess fees for covered boilers and pressure vessels.

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 8366C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90

ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

875—90.1(89) Purpose and scope. These rules institute administrative and operational procedures for implementation of Iowa Code chapter 89. An object is not considered “under pressure” and is not within the scope of Iowa Code chapter 89 when there is clear evidence that the manufacturer did not intend it to be operated at more than 3 psi and the object is operating at 3 pounds per square inch (psi) or less. Jurisdiction is limited to objects, appurtenances, controls, safety devices, and equipment rooms as required by Iowa rules.

875—90.2(89,252J,272D) Definitions. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule are applicable to the rules contained in 875—Chapters 90 through 96.

“*Alteration*” means a change in the object described on the original manufacturer’s data report that affects the pressure-retaining capability of the pressure-retaining object. A nonphysical change such as an increase in the maximum allowable working pressure (internal or external), an increase in design temperature, or a reduction in minimum temperature of a pressure-retaining item is considered an alteration.

“*ANSI/ASME CSD-1*” means Control and Safety Devices for Automatically Fired Boilers.

“Appurtenance” means any item or equipment that is attached to the object and is part of the boiler external piping.

“ASME” means the American Society of Mechanical Engineers.

“Boiler” means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat. “Boiler” includes all temporary boilers.

“Boiler external piping” means all boiler piping and components as set forth in the scope of the edition of ASME B31.1 currently adopted by reference in 875—Chapter 91.

“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 of the department of revenue pursuant to Iowa Code chapter 272D.

“CFR” means Code of Federal Regulations.

“Construction or installation code” means the applicable standard for construction or installation in effect at the time of installation.

“CSD-1 report” means Manufacturer’s/Installing Contractor’s Report for ASME CSD-1.

“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.

“Electric boiler” means a power boiler, heating boiler, high or low temperature water boiler in which the source of heat is electricity.

“Exit” means a doorway, hallway, or similar passage that will allow free, normally upright unencumbered egress from an area.

“External inspection” means a complete examination made of the external surfaces and safety devices while the object is in operation, unless the object is required to be shut down pursuant to 875—subrule 89.3(4).

“High temperature water boiler” means a water boiler intended for operations at pressures in excess of 160 psig or temperatures in excess of 250 degrees F.

“Hot water heating boiler” means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and that operates at a pressure not exceeding 160 psig or a temperature of 250 degrees F at the boiler outlet.

“Hot water supply boiler” means a boiler that:

1. Operates at a pressure not exceeding 160 psig;
2. Furnishes hot water to be used externally to itself; and, either:
 - Bears a National Board “H” stamp and has a temperature less than or equal to 250 degrees F at or near the boiler outlet, or,
 - Bears a National Board “HLW” stamp and has a temperature less than or equal to 210 degrees F at or near the boiler outlet.

“Installation” means the process by which an object is connected to a system for operation. This applies to all objects whether they are new, used, or being brought back to service after being removed.

“Institution of health and custodial care” means any of the following:

1. A health care facility as defined by Iowa Code section 135C.1;
2. An assisted living program as defined by Iowa Code section 231C.2;
3. A boarding home as defined by Iowa Code section 135O.1;
4. A hospice that offers inpatient services in an institutional setting;
5. Any institution or facility in which persons are housed to receive medical, health, or other care or treatment; or
6. Any other institution or facility in which persons are housed to receive assistance with meeting personal needs or activities of daily living.

A facility or office that provides care and services only on an outpatient basis is not an “institution of health and custodial care.”

“Internal inspection” means as complete an examination as can be reasonably made of the internal surfaces of an object while it is shut down and access for examination is attained through the removal of any manhole plates, handhole plates, blind flanges, piping spools or fittings attached to the object. A determination that an examination cannot be reasonably made is not based on a failure of the owner or user to provide clearance or on failure of the owner or user to provide for the inspector’s safety and health.

“ISO” means International Standards Organization.

“Lap seam crack” means a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

“Miniature boiler” means a boiler that does not exceed a 16-inch inside shell diameter, 20 square feet of heating surface (not applicable to electric boilers), 5 cubic feet of gross volume (exclusive of casing and insulation), and 100 psig maximum allowable working pressure.

“National Board” means the National Board of Boiler and Pressure Vessel Inspectors, whose membership is composed of the chief inspectors of jurisdictions who are charged with the enforcement of the provisions of boiler codes.

“National Board Inspection Code” or *“NBIC”* means the Manual for Boiler and Pressure Vessel Inspectors (ANSI/NB 23) published by the National Board. Copies of the code may be obtained from the National Board.

“Object” means a boiler or pressure vessel.

“OEM” means original equipment manufacturer.

“Owner or user” means any person, firm, or corporation legally responsible for the installation, operation, and maintenance of any object within the jurisdiction.

“Power boiler” means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch or a water boiler intended for operation at pressures in excess of 160 pounds per square inch or temperatures in excess of 250 degrees F.

“Process steam generator” means a vessel or system of vessels comprised of one or more drums and one or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

“Psig” means pounds per square inch gage.

“Relief valve” means an automatic pressure-relieving device actuated by a static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure and that is used primarily for liquid service.

“Repair” means work necessary to return a boiler or pressure vessel to a safe operating condition.

“Rupture disk device” means a nonreclosing pressure-relief device actuated by inlet static pressure and designed to function by the bursting of a pressure-containing disk.

“Safe point of discharge” means the same as in the National Board Inspection Code: a location that will not cause property damage, cause equipment damage, or create a health or safety threat to personnel in the event of discharge.

“Safety appliance” includes, but not be limited to:

1. Rupture disk device;
2. Safety relief valve;
3. Safety valve;
4. Temperature limit control;
5. Pressure limit control;
6. Gas switch;
7. Air switch; or
8. Any major gas train control.

“Safety relief valve” means an automatic, pressure-actuated relieving device suitable for use as a safety or relief valve, depending on application.

“Safety valve” means an automatic, pressure-relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. The safety valve is used for gas or vapor service.

“Special inspection” means an inspection that is not required by Iowa Code chapter 89.

“Temperature and pressure relief valve” means a valve set to relieve at a designated temperature and pressure.

“Temporary object” means a boiler, unfired steam pressure vessel, or combination thereof that is not a permanent fixture or part of normal operation of the facility.

“Unfired steam boiler” means a vessel or system of vessels intended for operation at a pressure in excess of 15 psig for the purpose of producing and controlling an output of thermal energy.

“Unfired steam pressure vessel” means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source. “Unfired steam pressure vessel” may include items such as expansion tanks, flash tanks, and condensate return tanks.

“U.S. customary units” means feet, pounds, inches and degrees Fahrenheit.

“Water heater supply boiler” means a closed vessel in which water is heated by combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressure not exceeding 160 psig and includes all controls and devices necessary to prevent water temperatures from exceeding 210 degrees F.

875—90.3(89) Iowa identification numbers. All objects shall be identified by an Iowa identification number. State inspectors and special inspectors shall assign identification numbers as directed by the department to all jurisdictional objects that lack numbers. Identification numbers shall be attached in plain view to the object using one of the following methods:

1. A yellow sticker 2 inches by 3 inches affixed to the object and bearing the number.
2. A metal tag 1 inch by 2½ inches affixed to the object and bearing the number.
3. Numbers at least 5/16 of an inch high and stamped directly on the object.

875—90.4(89) Preinspection owner or user preparation.

90.4(1) *Preparation of objects.* Each owner or user shall ensure that each object covered by Iowa Code chapter 89 is prepared for inspection pursuant to this rule.

90.4(2) *Confined space and lockout, tagout procedures.*

a. If an object is a non-permit-required confined space or a permit-required confined space, the owner or user must prepare the object for inspection accordingly. Otherwise the inspector will not enter the space.

b. It is the duty of the owner or user to inform any inspector of the owner’s or user’s confined space entry and lockout, tagout procedures and supply to the inspector all information necessary to assess whether the confined space is safe for entry. It is the right of an inspector to verify any of the information supplied.

c. The owner or user shall have all objects locked and tagged, as applicable, prior to the inspector’s entry for inspection or testing.

d. For entry into a permit-required confined space, the owner or user shall provide the necessary equipment such as air monitors and a qualified attendant who has received all the information relevant to the entry.

90.4(3) *Hydrostatic tests.* The owner or user shall prepare for and apply a hydrostatic test, whenever necessary, on the date specified by the inspector, which date will be not less than seven days after the date of notification.

90.4(4) *Boilers.* A boiler shall be prepared for internal inspection in the following manner:

- a. Fluid will be drawn off and the boiler washed thoroughly.
- b. Manhole and handhole plates, washout plugs and inspection plugs in water columns will be removed as required by the inspector. The furnace and combustion chambers will be thoroughly cooled and cleaned.
- c. All grates of internally fired boilers will be removed.
- d. Brickwork will be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.
- e. Low-water fuel cutoff controls will be opened or removed to allow for visual inspection.

90.4(5) *Pressure vessels.* The extent of inspection preparation for a pressure vessel will vary. If the inspection is to be external only, advance preparation is not required other than to afford reasonable access to the vessel. For combined internal and external inspections of small vessels of simple construction handling air, steam, nontoxic or nonexplosive gases or vapors, minor preparation is required, including affording reasonable means of access and removing manhole plates and inspection openings. In other cases, preparation includes removing the internal fittings and appurtenances to permit satisfactory inspection of the interior of the vessel if required by the inspector.

90.4(6) *Removal of covering or brickwork to permit inspection.* If the object is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and so that the size of rivets, pitch of the rivets, and other data necessary to determine the safety of the object may be obtained, providing the information cannot be determined by other means. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

90.4(7) *Improper preparation for inspection.* If an object has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for hydrostatic tests as set forth in this chapter, the inspector may decline to make the inspection or test, and the inspection certificate will be withheld until the owner or user complies with the requirements.

875—90.5(89) Inspections.

90.5(1) *General.* All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 are inspected according to the requirements of the National Board Inspection Code (2021), which is hereby adopted by reference. A department inspector or special inspector must perform the inspections.

90.5(2) *Schedule.*

a. All required inspections must be performed according to the schedule set forth in Iowa Code section 89.3, unless an exception is set forth in this rule.

b. Except for inspections of unfired steam pressure vessels operating in excess of 15 pounds per square inch and low pressure steam boilers, each certificate inspection must be performed within a 60-day period prior to the expiration date of the operating certificate. Modification of this 60-day period will be permitted only upon written application showing just cause for waiver of the 60-day period.

c. Special inspections may be conducted when deemed necessary by the department and the object's owner or user.

90.5(3) *Inspections conducted by special inspectors.* Special inspectors shall provide copies of the completed report to the insured and to the department within 14 days of completing the inspection. The reports list all noteworthy conditions that are within the scope of Iowa Code chapter 89, all recommendations, and all requirements. If the special inspector has not provided the results of the inspection within the time frame identified, the department may conduct the inspection.

90.5(4) *Type of inspection.* The inspection will be an internal inspection when required; otherwise, it shall be as complete an external inspection as possible. Conditions including but not limited to the following may also be the basis for an internal inspection:

- a.* Visible metal or insulation discoloration due to excessive heat.
- b.* Visible distortion of any part of the pressure vessel.
- c.* Visible leakage from any pressure-containing boundary.
- d.* Any operating records or verbal reports of a vessel being subjected to pressure above the nameplate rating or to a temperature above or below the nameplate design temperature.
- e.* A suspected or known history of internal corrosion or erosion.
- f.* Evidence or knowledge of a vessel having been subjected to external heat from a fire.
- g.* A welded repair not documented as required.
- h.* Evidence of an accident, incident or malfunction that could affect or may have resulted from a problem with the object's integrity.

90.5(5) *Internal inspections for unfired steam pressure vessels operating at more than 15 pounds per square inch.* The director may require an internal inspection of an unfired steam pressure vessel

operating in excess of 15 psi when an inspector observes any deviation from these rules, Iowa Code chapter 89, the construction code, the installation code, or the National Board Inspection Code.

90.5(6) *Inspection of inaccessible parts.* When, in the opinion of the inspector, as a result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall remove such material to permit proper inspection and thickness measurement of any part of the vessel. Nondestructive examination is acceptable.

90.5(7) *Imminent danger.*

a. If the director determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be made to the owner or user through contact information available in the department's records or by posting a notice at the location of the object.

b. Upon such notice, the owner or user shall immediately take the necessary steps to cease operation of the object. All forms of energy to and from the object must be isolated and physically locked in the closed position.

c. A department inspector will verify that the object is no longer in operation and all forms of energy to and from the object have been isolated and are locked in the closed position.

d. The object shall not be used until all necessary repairs have been completed, the object has passed inspection, all repair documentation is complete, and the department reviews and approves the documentation.

90.5(8) *Internal inspections on a four-year cycle based on process safety management compliance.* The owner demonstrates compliance with the requirements set forth in Iowa Code section 89.3(5) "a"(4) "b" by annually submitting to the director a notarized affidavit. The affidavit shall be in a format approved by the director and signed by the owner or an officer of the company.

90.5(9) *Internal inspection on a four-year cycle for utility objects.* An object that meets the criteria of this subrule will be inspected internally at least once every four years and externally every year. If at any time the object or the owner no longer meets the criteria of this subrule, internal inspections will be performed on a two-year cycle.

a. The object is owned and operated by an electric public utility subject to rate regulation under Iowa Code chapter 476.

b. The object and the owner meet all the requirements for a two-year internal inspection interval.

c. If the object is shut down for a period sufficient to allow safe entry, and more than two years have passed since the last internal inspection, the owner shall notify the director of the outage and will schedule an internal inspection.

d. If the director determines that an earlier inspection is necessary, the owner shall prepare the object for inspection.

90.5(10) *Request for extended inspection interval.*

a. Owners of objects covered under Iowa Code section 89.3(4) "a" may apply for an extended internal inspection interval of up to seven years.

b. The application for an extended internal inspection interval includes the following information submitted to the director:

(1) The name and contact information of the requestor.

(2) The state identification number of the object.

(3) The interval requested with supporting reasons.

(4) An affidavit affirming the following:

1. Compliance with the process safety management standard contained in 29 CFR §1910.119.

2. The object is included as process safety management process equipment in the owner's process safety management program.

3. The object meets the requirements contained in the National Board Inspection Code.

4. The object is fit for service based on the year of fabrication and the estimated service life of the object as determined by Part 2 of the National Board Inspection Code.

5. Practices have been implemented for managing consumable items and ancillary equipment of the object.

(5) The following supporting records:

1. Inspection records of the boiler and ancillary equipment for the prior five years.
2. The most recent Report of Fitness for Service Assessment.
3. Every Form R-1 Report of Repair and Form R-2 Report of Alterations for the prior five years.

(6) A request for an informal conference, if desired.

c. The director will consider, among other things, whether the object meets the requirements contained in the National Board Inspection Code, whether the object is fit for service based on the year of fabrication, the estimated service life of the object as determined by Part 2 of the National Board Inspection Code, and whether the owner has implemented practices for managing consumable items and ancillary equipment of the object.

d. The director may grant an extended inspection interval.

(1) An extended inspection interval lasts until the next inspection, at which time the owner of the object may again apply for an extension.

(2) The owner shall promptly report to the department's boiler and pressure vessel unit any unscheduled shutdowns, significant incidents, near misses, and any other occurrences that might reasonably require reinspection before the extended date. Should the occurrence reasonably require it, or if any such event is not reported within ten days of occurrence, the director may revoke the extended inspection interval.

e. If the director does not intend to grant the extension, the director will give the applicant a Notice of Intent to Deny Extended Inspection Interval, granting ten days for the applicant to provide additional reasons and evidence why the interval should be extended.

875—90.6(89) Fees.

90.6(1) *Special inspector commission fee.* A \$55 fee shall be paid annually to the director to obtain a special inspector commission pursuant to Iowa Code section 89.7.

90.6(2) *Certificate fee.* A \$40 fee shall be paid for each one-year certificate, an \$80 fee shall be paid for each two-year certificate, and a \$160 fee shall be paid for each four-year certificate.

90.6(3) *Fees for inspection.* An inspection fee for each object inspected by a department inspector shall be paid by the appropriate party as follows:

a. A \$55 fee for each water heater supply boiler.

b. A \$95 fee for each boiler, other than a water heater supply boiler, having a working pressure up to and including 450 pounds per square inch or generating between 20,000 and 100,000 pounds of steam per hour.

c. A \$215 fee for each boiler, other than a water heater supply boiler, having a working pressure in excess of 450 pounds per square inch and generating in excess of 100,000 pounds of steam per hour.

d. A \$55 fee for each pressure vessel, such as steam stills, tanks, jacket kettles, sterilizers and all other reservoirs having a working pressure of 15 pounds or more per square inch.

e. An additional fee will be charged if, upon the request of an owner or user, the director agrees to any non-routine schedule for an inspection outside of normal business hours, a special inspection, or a site visit. The additional fee will be calculated at a rate of \$200 per hour, including travel time, with a minimum charge of \$400.

f. If a boiler or pressure vessel has to be reinspected, there shall be another inspection fee as specified above.

90.6(4) *Fees for attempted inspections.* A \$35 fee is charged for each attempt by a department inspector to conduct an inspection that is not completed through no fault of the department.

875—90.7(89) Certificate. No boiler or pressure vessel shall be operated without a current, valid certificate to operate. A certificate to operate will not be issued until the boiler or pressure vessel is in compliance with the applicable rules and all fees have been paid. The current certificate to operate or a

copy of the current certificate to operate shall be conspicuously posted in the room where the object is installed.

875—90.8(89,252J,272D) Special inspector commissions.

90.8(1) *Definition of “reputable insurance company.”* As used in this rule, “reputable insurance company” means a company recognized by the Iowa insurance division as a licensed insurer, a risk retention group, an alien surplus lines insurer, or a surplus lines insurer.

90.8(2) *Application.*

a. A person applying for a new or renewed commission shall complete, sign, and submit to the department with the required fee the form entitled “Application for Boiler and Pressure Vessel Special Inspector Commission” provided by the department. Additionally, the applicant shall submit a copy of the applicant’s current National Board commission/endorsement with each application.

b. An applicant for a new Iowa special inspector commission shall schedule a meeting with the chief boiler inspector to discuss Iowa law and the responsibilities, expectations, and requirements for a special inspector.

90.8(3) *Expiration.* The commission is for no more than one year and ceases when the special inspector leaves employment with the insurance company, or when the commission is suspended or revoked by the director. Each commission expires no later than December 31 of each year.

90.8(4) *Changes.* The special inspector shall notify the department at the time any of the information on the form or attachments changes.

90.8(5) *Denials.* The director may refuse to issue or renew a special inspector’s commission for failure to complete an application package, if the applicant or inspector does not hold a National Board commission, or for any reason listed in subrules 90.8(7) through 90.8(9).

90.8(6) *Investigations.* Investigations will take place at the time and in the places the department directs. The director may investigate for any reasonable cause. The director may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

90.8(7) *Reasons for probation.* The director may issue a notice of commission probation when an investigation reasonably reveals that the special inspector does not represent a reputable insurance company or the special inspector filed inaccurate reports.

90.8(8) *Reasons for suspension.* The director may issue a notice of commission suspension when an investigation reasonably reveals the following:

- a. The special inspector failed to submit and report inspections on a timely basis;
- b. The special inspector abused the special inspector’s authority;
- c. The special inspector misrepresented self as a state inspector or a state employee;
- d. The special inspector used commission authority for inappropriate personal gain;
- e. The special inspector failed to follow the department’s rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;
- f. The special inspector committed numerous violations as described in subrule 90.8(7);
- g. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one’s self or another;
- h. The National Board revoked or suspended the special inspector’s work card;
- i. The department received a certificate of noncompliance;
- j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs 90.8(8) “a” to “h”; or
- k. The special inspector does not represent a reputable insurance company.

90.8(9) *Reasons for revocation.* The director may issue a notice of revocation of a special inspector’s commission when an investigation reveals any of the following:

- a. The special inspector filed a misleading, false or fraudulent report;
- b. The special inspector failed to perform a required inspection;
- c. The special inspector failed to file a report or filed a report that was not in accordance with the provisions of applicable standards;

- d. The special inspector failed to notify the department in writing of any accident involving an object;
- e. The special inspector committed repeated violations as described in subrule 90.8(8);
- f. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- g. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform the acts or omissions listed in paragraphs 90.8(9) "a" to "f";
- h. The National Board revoked or suspended the special inspector's commission card;
- i. The department received a certificate of noncompliance; or
- j. The special inspector does not represent a reputable insurance company.

90.8(10) Procedures. The following procedures apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J or 272D apply.

a. *Notice of actions.* The director shall serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A. A copy will be sent to the insurance company employing the special inspector.

b. *Contested cases.* The special inspector has 20 days to file a written notice of contest with the director. If the special inspector does not file a written contest within 20 days of receipt of the notice, the action stated in the notice will automatically be effective.

c. *Emergency suspension.* Pursuant to Iowa Code section 17A.18A, if the director finds that public health, safety or welfare imperatively requires emergency action because a special inspector failed to comply with applicable laws or rules, the special inspector's commission may be summarily suspended.

d. *Probation period.* A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.

e. *Suspension period.* A special inspector's commission may be suspended up to five years for each incident causing a suspension.

f. *Revocation period.* A special inspector's commission that has been revoked shall not be reinstated for five years.

g. *Concurrent actions.* Multiple actions may proceed at the same time against any special inspector.

h. *Revoked or suspended commissions.* Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall forfeit the special inspector's commission card to the director.

875—90.9(89) Quality reviews, surveys and audits.

90.9(1) An entity that manufactures or repairs boilers, pressure vessels or related equipment may request quality reviews, surveys or audits from certifying organizations such as the ASME or the National Board. The department is authorized to conduct the quality reviews, surveys or audits. If the department performs the service, the manufacturer or repairer shall pay all applicable expenses.

90.9(2) Quality reviews, surveys and audits for certification to the National Board or ASME standards shall be conducted only by a person or organization designated by the director. Any person or organization seeking this designation on behalf of the department shall provide documented evidence of training, examination, experience, and certification for the type of reviews, surveys and audits to be performed. The director has final authority to determine qualifications and designations.

a. *Assessing quality programs.* The department recognizes the ASME and the National Board as qualified designees for conducting quality reviews, surveys and audits that lead to ASME or National Board program certification.

b. *ISO 9000 assessments.* The department recognizes the ASME and the National Board:

(1) To be acceptable ISO 9000 registrars of quality systems for boilers and pressure vessels and the related pressure-technology equipment industry;

(2) To certify auditors and lead auditors to the requirements of ISO 10011-2 1991(E), Annex A; and

(3) To conduct ISO 9000 assessments for the boiler, pressure vessel, and related pressure-technology equipment industry.

875—90.10(89) Reporting requirements.

90.10(1) *Control and safety device reports.* Documentation required by this subrule shall be kept on site and be available for inspection by the department or special inspectors. The owner or user shall mail a copy of the documentation required by this subrule to the department.

a. The requirements of this subrule do not apply to:

- (1) An object within the scope of 875—Chapter 96;
- (2) A hot water supply boiler covered by ASME Section IV, Part HLW; or
- (3) A boiler with a fuel input rating greater than or equal to 12,500,000 Btu per hour, falling within the scope of NFPA 85, Boiler and Combustion Systems Hazards Code.

b. The installer shall complete a CSD-1 report for each installed object. For all objects that do not fall under CSD-1, an I-1 report in accordance with NBIC shall be completed.

c. A person who installs a new burner, new gas train, or new controller on an object shall complete a CSD-1 report.

d. A person who replaces a part or component of an object shall complete the relevant portions of the CSD-1 report unless the replacement satisfies the design specifications. A copy of an invoice containing the same information as the relevant portions of the CSD-1 report is an acceptable alternative.

90.10(2) *Reporting repairs and alterations.* If the National Board Inspection Code requires that a report of repair, alteration or other such documentation is required, a copy of that documentation must be simultaneously filed with the director.

90.10(3) *Reporting explosions and other incidents.*

a. The following definitions apply to this subrule.

“*Incident*” means the explosion of a covered object or other failure of a component of a covered object causing injury or acute illness.

“*Injury*” means a personal injury requiring professional medical care or causing disability exceeding one day.

b. The owner or user of a covered object shall notify the director of an incident. A special inspector investigating an incident shall notify the owner or user of this reporting requirement.

c. Incident reports are made by calling 515.669.8945 or 515.725.2050. If the incident occurs during normal department operating hours, notification shall occur before close of business on that day. If the incident occurs when the department office is closed, the notification shall occur no later than close of business on the next department business day. Department hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

d. At the request of the director, a person who submits a report pursuant to this subrule shall also submit a written report that includes the state identification number of the object, name of the owner of the object, and description of the incident.

e. The removal of any part of the damaged object from the premises is forbidden until permission to do so is granted by the state inspector or special inspector who investigated the incident.

f. When an incident involves the failure or destruction of any part of the object, the use of the object is forbidden until it has been made safe and it has passed an inspection by the state inspector or special inspector who investigated the incident.

875—90.11(89) Publications available for review. Pursuant to Iowa Code section 89.5(3), the standards, codes, and publications adopted by reference in these rules are available for review in the office of the department, 6200 Park Avenue, Suite 100, Des Moines, Iowa.

875—90.12(89) Notice prior to installation. Written notice of intent to install objects subject to the jurisdiction of Iowa Code chapter 89 shall be provided to the director at least ten days before installation. Written notice is accomplished by completing and submitting to the director either:

1. The form designated by the director, or
2. The National Board’s Boiler Installation Report, I-1.

875—90.13(89) Temporary objects.

90.13(1) *Certificate to operate.* A certificate to operate a temporary object expires one year from the date of issuance or when the temporary object is disconnected.

90.13(2) *Inspections.*

a. An internal inspection and hydrostatic test pursuant to the National Board Inspection Code shall be performed on site at a new location before a temporary object is started up. Once a temporary object has been placed into normal operation, an external operating inspection shall be performed.

b. An inspection on a temporary object that remains at the same location and is in continuous service longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3.

875—90.14(89) Conversion of a power boiler to a low-pressure boiler. The following requirements apply to the conversion of a power boiler to a low-pressure boiler. The owner shall comply with the requirements of subrule 90.15(1) for each conversion. In addition, the owner shall comply with the requirements of subrule 90.15(2) if the converted object will be located outside of a place of public assembly or with the requirements of subrule 90.15(3) if the converted object will be located in a place of public assembly.

90.14(1) *General requirements.*

a. The owner shall provide to the director written notice of intent to convert a power boiler to a low-pressure boiler prior to conversion. The required form for a notice of conversion is available on the department's website. At a minimum, the notice shall contain the following:

- (1) Address, uses, and owner of the building where the boiler is located.
- (2) The Iowa identification number assigned to the boiler.
- (3) Name and contact information for the person completing the notice.
- (4) Name and contact information for the contractor or other person planning to perform the conversion.

b. Pressure controls shall not exceed 15 psi.

c. All boiler controls shall comply with ASME CSD-1.

d. Safety valves and safety relief valves shall be manufactured in accordance with a national or international standard.

e. One or more spring-pop safety valves meeting the following requirements shall be installed on each steam boiler:

- (1) The valve shall be adjusted and sealed to discharge at a pressure not to exceed 15 psig.
- (2) The valve capacity shall be certified by the National Board.

f. The converted boiler shall be subject to post-conversion external inspection to ensure that the requirements of this rule are met.

90.14(2) *Boilers located outside places of public assembly.* A power boiler that was converted to a low-pressure boiler and that is located outside of a place of public assembly shall not be converted back to a power boiler unless the following requirements are met:

a. The owner shall notify the director at least ten days prior to converting the boiler.

b. The owner shall comply with the editions of ASME Section I and CSD-1 in effect at the time of the second conversion.

c. The owner shall comply with the version of 875—Chapter 92 in effect at the time of the second conversion.

90.14(3) *Boilers located in places of public assembly.* A power boiler converted to a low-pressure boiler that is located in a place of public assembly complies with 875—Chapter 94.

875—90.15(89) Definitions regarding objects. The following definitions govern classification and status of objects in Iowa. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule are applicable to the rules contained in 875—Chapters 90 through 96.

“*Active status*” means an object is physically attached to the system and any forms of potential energy. The object may or may not be in operation.

“*Exempt status*” means an object that is not required to be inspected pursuant to Iowa Code chapter 89.

“*Inactive status*” means the object is no longer in operation and all forms of potential energy have been disconnected in a manner that creates an air gap.

“*Modular boiler*” means a steam or hot water heating assembly consisting of a group of individual boilers called modules intended to be installed as a unit with no intervening stop valves. Modules may be under one jacket or individually jacketed. The individual modules shall be limited to a maximum input of 400,000 Btu/hour (117kW) (gas), 3 gph (11.4 L/h) (oil), or 115kW (electric).

“*Scrapped status*” means the object has been permanently destroyed and is no longer physically at the location.

These rules are intended to implement Iowa Code chapters 17A, 89, 252J, and 272D.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8894C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to general requirements for all objects

The Labor Services Division hereby rescinds Chapter 91, “General Requirements for All Objects,” 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 89.14.

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 91 that requires certain design features and other safety measures for boilers and pressure vessels.

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 8367C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 91 and adopt the following **new** chapter in lieu thereof:

CHAPTER 91
GENERAL REQUIREMENTS FOR ALL OBJECTS

875—91.1(89) Codes and code cases adopted by reference.

91.1(1) *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2021), including Code Cases, is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2021) except for objects that meet one of the following criteria:

- a.* An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b.* A miniature boiler installed before March 31, 1967;
- c.* A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- d.* A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

91.1(2) *Inspection code adopted by reference.* The National Board Inspection Code (2021) is adopted by reference, and installations, alterations, and repairs after February 16, 2022, shall comply with it.

91.1(3) *Electric code adopted by reference.* The National Electrical Code, NFPA 70 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

91.1(4) *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 (2020), and the Building Services Piping Code, ASME B31.9 (2020), are adopted by reference, and installations after February 16, 2022, shall comply with them up to and including the first valve.

91.1(5) *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2021) is adopted by reference, and installations after December 1, 2022, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

91.1(6) *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2021) are adopted by reference, and installations after February 16, 2022, shall comply with them.

91.1(7) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2020), is adopted by reference, and installations after February 16, 2022, shall comply with it.

91.1(8) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (2021), is adopted by reference, and installations after February 16, 2022, shall comply with it.

91.1(9) *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

91.1(10) *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2019), is adopted by reference, and installations after April 15, 2020, shall comply with it.

875—91.2(89) Safety appliance.

91.2(1) No person shall remove, disable or tamper with a required safety appliance except for the purpose of repair or inspection.

91.2(2) An object shall not be operated unless all required and installed safety appliances are properly functional and operational.

875—91.3(89) Blowoff equipment. The blowdown from an object that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through blowoff equipment that will reduce pressure and temperature. The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees F. If the local jurisdiction has a temperature limit of less than 150 degrees F, the temperature of the water leaving the blowoff equipment shall comply with the limit set by the local jurisdiction. The pressure of the water leaving the blowoff equipment shall not exceed 5 psig. The blowoff piping and fittings between the object and the blowoff tank shall comply with the construction or installation code. All materials used in the fabrication of object blowoff equipment shall comply with the construction or installation code. All blowoff equipment shall be equipped with openings to facilitate cleaning and inspection.

875—91.4(89) Location of discharge piping outlets. The discharge from safety valves, safety relief valves, blowoff pipes and other outlets shall comply with the following:

91.4(1) The discharge piping terminates at a safe point of discharge.

91.4(2) When the safety valve or temperature and pressure relief valve discharge is piped away from the object to a safe point of discharge, provision is made for properly draining the piping.

91.4(3) The size of the discharge piping is not reduced from the size of the relief valve.

91.4(4) All discharge piping is comprised of appropriate metallic material identified in ASME Section II.

875—91.5(89) Pipe, valve, and fitting requirements. Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules. Dielectric fittings shall be used where dissimilar metals are joined.

875—91.6(89) Repairs and alterations to unfired steam pressure vessels. No single repair of an unfired steam pressure vessel shall involve replacement of more than 50 percent of the OEM's pressure-retaining boundary.

875—91.7(89) Plugging boiler tubes. This rule does not apply to tubes in headers of economizers, evaporators, superheaters, or reheaters.

91.7(1) *General requirements.*

a. Leaky tubes are replaced or plugged.

b. Tube plugs are made of a material that is compatible with the material of the boiler tube being plugged and shall be welded into place or manufactured to be expanded into the tube sheet or drum.

c. The maximum number of tubes that may be plugged shall be the lesser number specified by the OEM or an engineer experienced in boiler design.

d. Documentation of the maximum number of tubes that may be plugged are kept on site, and a copy is supplied to the department by either mail or email.

91.7(2) *Fire tube boilers.*

a. A tube that is adjacent to a plugged tube shall not be plugged.

b. All plugged boiler tubes shall be replaced prior to the next required certificate inspection.

91.7(3) *Water tube boilers, unfired boilers, or process steam generators.* Water wall tubes that form a separation wall between products of combustion and the outside atmosphere or a separation of the gas passes in a multiple gas pass boiler shall not be plugged.

875—91.8(89) Equipment room. This rule applies to existing and new installations except as noted in subrule 91.10(1).

91.8(1) *Clearance requirements.*

a. This paragraph applies to objects installed after December 1, 2022. Minimum clearance on all sides of objects will be 36 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 36 inches of service clearance, those dimensions will be followed. Manholes will have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

b. This paragraph applies to all objects installed after December 1, 2021, and before December 1, 2022. All objects will be installed with the clearances identified in NBIC Part 1.

c. This paragraph applies to objects installed after September 20, 2006, and before December 1, 2021. Minimum clearance on all sides of objects will be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 24 inches of service clearance, those dimensions will be followed. Manholes will have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

d. All objects installed prior to September 20, 2006, will be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.

91.8(2) *Conditions required.*

a. The roof, walls and floor of the equipment room will be free from leaks and structurally sound.

b. The equipment room will have drainage adequate to remove standing water from the floor.

c. The equipment room will be free from materials that obstruct access to the objects, their setting, or operation.

d. Storage of flammable material or gasoline-powered equipment in the equipment room is prohibited.

91.8(3) *Exit from equipment room.* This subrule applies to an equipment room exceeding 500 square feet of floor area, containing at least one object, and containing fuel-burning equipment with at least a combined capacity of 1,000,000 Btu per hour or the equivalent electrical heat input. Two means of exit located remotely from one another shall be provided on each elevation for covered equipment rooms. A platform at the top of a single object or other equipment is not considered an elevation.

91.8(4) *Carbon monoxide detector or alarm.* The owner or user shall install and maintain a carbon monoxide detector or alarm in an equipment room where one or more fuel-fired objects are located in accordance with the detector or alarm manufacturer's recommendations.

875—91.9(89) Fall protection. The owner or user shall provide safe access to object parts over four feet high consistent with applicable federal safety regulations.

875—91.10(89) Air and ventilation requirements.

91.10(1) Notice concerning other rules. The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.

91.10(2) Documentation. Documentation of compliance with any requirement of this rule will be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.

91.10(3) National combustion air standards.

a. Installations. Installations will comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

b. Existing objects. An adequate supply of combustion air will be maintained for all objects while in operation. Compliance with the current edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC as adopted at rule 875—91.1(89) or with subrule 91.13(4) constitutes compliance with this rule. Compliance with an earlier edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC constitutes compliance with this rule. However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA. Compliance with an earlier version of Iowa's combustion air rule constitutes compliance with this rule. Earlier versions of Iowa's combustion air rule are available from the board's staff upon request.

91.10(4) Iowa combustion air standard. A permanent source of outside air will be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu per hour, required air, and louvered area. The minimum net louvered area will not be less than 1 square foot. The following table will be used to determine the net louvered area in square feet:

INPUT (Btu per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device will be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan will not exceed 500 feet per minute, and the total air delivered will be equal to or greater than shown above.

875—91.11(89) Condensate return tank. Condensate return tanks shall be equipped with at least two vents or a vent and overflow pipe to protect against a loose float plugging a single connection.

875—91.12(89) Conditions not covered. Any condition not governed by these rules is governed by the construction or installation code.

875—91.13(89) English language and U.S. customary units required. All documentation supplied for the unit including but not limited to the manufacturers' data report, drawings, parts lists, installation

manuals, and operating manuals shall be in English, and all measurements in U.S. customary units. All pressure gages, thermometers and other controls and safety devices shall also be in U.S. customary units.

875—91.14(89) National Board registration. Except for cast iron boilers and cast aluminum boilers, all objects shall be registered with the National Board.

875—91.15(89) ASME stamp. All objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

These rules are intended to implement Iowa Code chapter 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8888C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to power boilers

The Labor Services Division hereby rescinds Chapter 92, "Power Boilers," 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 89.14.

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 92 that requires certain design features and certain ways of operating boilers.

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 8368C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 92 and adopt the following **new** chapter in lieu thereof:

CHAPTER 92 POWER BOILERS

875—92.1(89) Scope. This chapter applies to all power boilers, and it applies to miniature power boilers installed on and after September 20, 2006. 875—Chapter 93 applies to miniature power boilers installed prior to September 20, 2006.

875—92.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

875—92.3(89) Maximum allowable working pressure for steel boilers. This rule applies to power boilers installed prior to July 1, 1983. A boiler constructed with fusion-welded seams and not radiographed and stress relieved during construction shall not be operated at a pressure in excess of 15 pounds per square inch. Boilers with fusion-welded seams that are radiographed and stress relieved and constructed to ASME Code requirements in effect when the boiler was constructed may be operated at a pressure as established in subrules 92.4(1) and 92.4(2).

92.3(1) Calculation. The maximum allowable working pressure on the shell of a boiler is to be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules. The formula for determining the maximum allowable working pressure is:

$$\frac{TStE}{RFS} = \text{Maximum allowable working pressure, psig.}$$

Where:

TS = Ultimate tensile strength of shell plate(s), psig. When the tensile strength of a steel plate(s) is unknown, it shall be taken as 55,000 psig for temperatures not exceeding 650 degrees F.

t = Minimum thickness of shell plates of the weakest course, in inches.

E = Efficiency of longitudinal joint calculated pursuant to construction or installation code.

R = Inside radius of the weakest course of the shell or drum, in inches.

FS = Factor of safety specified in subrule 92.4(2).

92.3(2) Factor of safety requirements.

- a.* The lowest factor of safety on boilers is four, except for horizontal tubular boilers having continuous lap seams more than 12 feet in length where the factor of safety is eight.
- b.* Boilers that are reinstalled and have lap riveted construction or seams of butt and double strap riveted construction use ASME Code, Section I (1971).

875—92.4(89) Maximum allowable working pressure and temperature for cast iron headers and mud drums. This rule applies to power boilers installed prior to July 1, 1983.

92.4(1) *Tube boiler.* The maximum allowable working pressure on a watertube boiler, the tubes of which are secured in cast iron or malleable iron headers or that have cast iron mud drums, will not exceed 160 psig or a temperature of 250 degrees F.

92.4(2) *Maximum steam pressure.* The maximum steam pressure on any boiler constructed of cast iron in which steam is generated is 15 psig.

875—92.5(89) Rivets. This rule applies to power boilers installed prior to July 1, 1983. When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, shall be selected from ASME Code, Section I (1971).

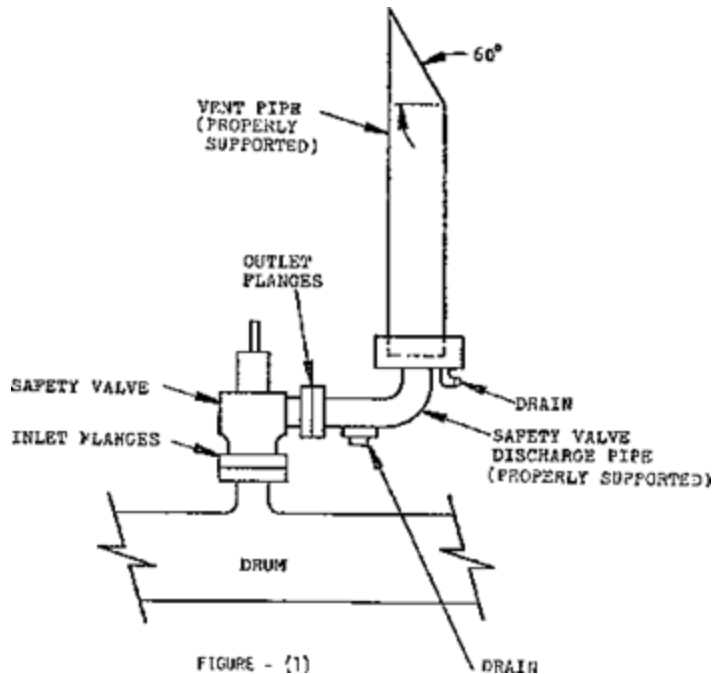
875—92.6(89) Safety valve requirements. This rule applies to power boilers installed prior to July 1, 1983.

92.6(1) The use of weighted-lever safety valves or safety valves having either the seat or disk of cast iron is prohibited. All power boilers will have direct, springloaded, pop-type safety valves that conform to the construction or installation code.

92.6(2) Each boiler will have at least one safety valve. All boilers with more than 500 square feet of water heating surface or an electric power input of more than 1100 kilowatts will have two or more safety valves.

92.6(3) The safety valve or valves will be connected to the boiler independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings.

92.6(4) No valves of any type will be placed between the safety valve and the boiler. If an escape pipe is used, no valve will be placed between the safety valve and the atmosphere. When an escape pipe is used, it will be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or escape pipe. Any elbow on an escape pipe will be located close to the safety valve outlet or the escape pipe and will be anchored and supported securely. All safety valve discharges will be so located or piped as to be carried away from walkways or platforms. When the safety valve is vented to the outside atmosphere, the second escape pipe will be arranged as shown in Figure 1.



92.6(5) The safety valve capacity of each boiler will be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 5 percent above the highest pressure to which any valve is set and in no case to more than 6 percent above maximum allowable working pressure.

92.6(6) One or more safety valves on every boiler will be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum allowable working pressure, but the range setting of all the safety valves on a boiler will not exceed 10 percent of the highest pressure at which any valve is set.

92.6(7) When two or more boilers operating at different pressures and safety valve settings are interconnected, the lowest pressure boilers or interconnected piping will be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

92.6(8) In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not including return traps), safety valves will not be set at a pressure greater than 94 percent of the lowest pressure maintained in the supply main feeding the boiler.

92.6(9) The minimum safety valve relieving capacity will be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface and waterwall heating surface as given in the following table. This method will not be used on electric boilers, waste heat boilers and forced-flow steam generators without a fixed steam and water line.

Minimum Pounds of Steam Per Hour Per Square
Foot of Heating Surface

Boiler Heating Surface:	Firetube Boilers	Watertube Boilers
Hand Fired	5	6
Stoker Fired	5	8
Oil, Gas, or Pulverized Fuel Fires	8	10
Waterwall Heating Surface:		
Hand Fired	8	8
Stoker Fired	10	12
Oil, Gas, or Pulverized Fuel Fires	14	16

92.6(10) Safety valve sizing.

- a. When a boiler is fired only by a gas having a heat value not in excess of 200 Btu per cubic foot, the minimum safety valve relieving capacity may be based on the value given for hand-fired boilers above.
- b. The minimum safety valve relieving capacity for electric boilers will be 3½ pounds per hour per kilowatt input.
- c. Maximum steaming capacity for safety valves will be the value stated on design documents or will be calculated by multiplying horsepower by 34.5.

875—92.7(89) Boiler feeding requirements. This rule applies to power boilers installed prior to July 1, 1983.

92.7(1) Each boiler will have a feed supply that will permit it to be fed at any time while under pressure. A boiler having more than 500 square feet of water-heating surface will have at least two means of feeding, one of which will be an approved feed pump, injector, or inspirator. One source of feed is directly from the water main. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the immediate shutoff of heat input prior to the water level reaching the lowest permissible level. The feedwater will be introduced into the boiler in such a manner that it will not be discharged close to riveted joints of shell or furnace sheets, directly against surfaces exposed to products of combustion, or directed to surfaces subject to radiation from the fire. The feed piping to the boiler will be provided with a check valve near the boiler and a stop valve between the check valve and the boiler.

92.7(2) When two or more boilers are fed from a common source, there will also be a valve on the branch to each boiler between the check valve and source of supply. Whenever a globe valve is used on feed piping, the inlet will be under the disk of the valve. In all cases where returns are fed back to the boiler by gravity, there will be a check valve and stop valve in each return line. The stop valve will be placed between the boiler and the check valve, and both will be located as close to the boiler as is practicable.

875—92.8(89) Water level indicator requirements. This rule applies to power boilers installed prior to July 1, 1983. Outlet connections that allow the escape of an appreciable amount of steam or water will not be placed on the piping. However, this rule does not prohibit the installation of damper regulators, feed water regulators, low-water fuel cutouts, drains, or steam gages. The water column will be provided with a drain of at least ¾-inch piping size. The drain must have a valve and be piped to a safe location. Each boiler will have three or more gage cocks located within the visible length of the water glass, except when the boiler has two water glasses located at the same horizontal lines. Only two gage cocks are required on boilers not over 36 inches in diameter with a heating surface not exceeding 100 square feet. Gage cocks are not required on electric boilers.

875—92.9(89) Pressure gage requirements. This rule applies to power boilers installed prior to July 1, 1983. Each boiler will have a pressure gage so located that the gage is readable. The pressure gage will be installed so that it will at all times indicate the pressure in the boiler. Each steam boiler will have the pressure gage connected to the steam space or to the water column or its steam connection. A valve or cock will be placed in the gage connection adjacent to the gage. An additional valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves will be located between the gage and the boiler. The pipe connection will be of ample size and arranged so that it may be cleared by blowing out. For a steam boiler the gage or connection will contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gage tube. Pressure gage connections will be suitable for the maximum allowable working pressure and temperature, but if the temperature exceeds 406 degrees F, brass or copper pipe or tubing will not be used. The connections to the boiler, except the siphon, if used, will not be less than ¼-inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, they will not be less than ½-inch inside diameter. The minimum size of a siphon, if used, will be ¼-inch inside diameter. The dial of the pressure

gage will be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than 1½ times this pressure.

875—92.10(89) Steam stop valve requirements. This rule applies to power boilers installed prior to July 1, 1983. Each steam outlet from a boiler, except safety valve and water-column connections, will be fitted with a stop valve located as close as practicable to the boiler. When a stop valve is so located that water can accumulate, ample drains will be provided. The drainage will be piped to a safe location and will not be discharged on the top of the boiler or its setting. When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler will be fitted with two stop valves having an ample free-blowing drain between them. The discharge of the drain will be piped clear of the boiler setting. The stop valves will consist of one automatic nonreturn valve next to the boiler and a second valve of the outside screw and yoke type.

875—92.11(89) Blowoff connection requirements. This rule applies to power boilers installed prior to July 1, 1983. Each boiler will have a blowoff pipe fitted with valve or cock, in direct connection with the lowest water space practicable.

92.11(1) When the maximum allowable working pressure exceeds 125 psig, the blowoff pipe will be at least schedule 80 from the boiler to the valve or valves and will run full size without reducers or bushings. Galvanized materials will not be used.

92.11(2) All fittings between the boiler and valve will be steel or at least schedule 80 fittings of bronze, brass, malleable iron, or cast iron, all of which will be suitable for the pressure and temperature. In case of replacement of pipe or fittings in the blowoff lines, as specified in this paragraph, they will be installed in accordance with the rules of new installations.

92.11(3) When the maximum allowable working pressure exceeds 125 psig, each bottom blowoff pipe will be fitted with at least a 250-pound standard valve or cock. Two valves, or a valve and a cock, should be used on each blowoff.

92.11(4) When exposed to direct furnace heat, a bottom blowoff pipe will be protected by firebrick or other heat resisting material so arranged that the pipe may be inspected.

92.11(5) An opening in the boiler setting for a blowoff pipe will be arranged to provide for free expansion and contraction.

These rules are intended to implement Iowa Code chapter 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8889C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to miniature power boilers

The Labor Services Division hereby rescinds Chapter 93, "Miniature Power Boilers Installed Prior to September 20, 2006," 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 89.14.

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 93 that requires certain design and operation standards for miniature power boilers installed prior to September 20, 2006.

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 8369C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 93 and adopt the following **new** chapter in lieu thereof:

CHAPTER 93**MINIATURE POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 20, 2006****875—93.1(89) Scope.**

93.1(1) This chapter sets forth requirements in addition to those contained in 875—Chapter 92 for boilers that:

- a. Have a heating surface of 20 square feet or less;
- b. Have a gross volume of 5 cubic feet or less, excluding casing and insulation;
- c. Have an inside shell diameter of 16 inches or less;
- d. Have 100 psig maximum allowable working pressure; and
- e. Were installed prior to September 20, 2006.

93.1(2) For objects covered by this chapter, if there is a conflict between this chapter and 875—Chapter 92, this chapter shall govern the issue.

875—93.2(89) Code adopted by reference. The current edition of the National Board Inspection Code adopted by reference in rule 875—91.1(89) applies to objects covered by this chapter.

875—93.3(89) Maximum working pressure. The maximum allowed working pressure is to be determined by rule 875—92.3(89).

875—93.4(89) Safety valve requirements. Boilers covered by this chapter will be equipped with a sealed spring-loaded pop safety valve of not less than ½-inch pipe size. The minimum relieving capacity of the safety valve will be determined in accordance with rule 875—92.6(89). In addition to these requirements, the safety valve will have sufficient capacity to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above maximum allowable working pressure.

875—93.5(89) Steam stop valves. Each steam line from a miniature power boiler shall be provided with a stop valve located as close to the boiler shell or drum as is practicable except when the boiler and steam receiver are operated as a closed system.

875—93.6(89) Water gage requirements.

93.6(1) Miniature power boilers for operation with a definite water level will be equipped with a glass water gage for determining the water level. The lowest permissible water level for vertical boilers will be at a point one-third of the height of the shell above the bottom head or tube sheet. When the boiler is equipped with an internal furnace, the water level will not be less than one-third of the length of the tubes above the top of the furnace tube sheet. In the case of small boilers operated in a closed system where there is insufficient space for the usual glass water gage, water level indicators of the glass bull's eye type may be used.

93.6(2) Miniature power boilers will have the lowest visible part of the water gage glass located at least 1 inch above the lowest permissible water level specified by the manufacturer.

875—93.7(89) Feedwater supply requirements.

93.7(1) Except for miniature power boilers operating without the extraction of steam, miniature power boilers will be provided with at least one feed pump or other feeding device unless the boiler feed line is connected to a water main carrying sufficient pressure to feed the boiler. In the latter case, in lieu of a feeding device, a suitable connection or opening will be provided to fill the boiler when cold. Such connection will be no less than ½-inch pipe size for iron or steel pipe and ¼-inch for brass or copper pipe.

93.7(2) The feed pipe will be provided with a check valve and a stop valve of a size not less than that of the pipe. The feed water may be delivered through the blowoff opening if desired.

875—93.8(89) Blowoff. Miniature power boilers shall be equipped with a blowoff connection, not less than ½-inch pipe size, located to drain from the lowest water space practicable. The blowoff shall be equipped with a valve or cock not less than ½-inch pipe size.

875—93.9(89) Washout opening requirements.

93.9(1) Miniature power boilers exceeding 12 inches internal diameter or having more than 10 square feet of heating surface will be fitted with not less than three brass washout plugs of 1-inch pipe size that will be screwed into openings in the shell near the bottom. In miniature power boilers of the closed type system heated by removable internal electric heating elements, the openings for these elements when suitable for cleaning purposes may be substituted for washout openings. Boilers not exceeding 12 inches internal diameter and having less than ten square feet of heating surface need not have more than two 1-inch openings for cleanouts, one of which may be used for the attachment of the

blowoff valve; these openings will be opposite each other where possible. All threaded openings will be opposite each other where possible. All threaded openings in the boiler will be provided with a riveted or welded reinforcement to give four full threads therein.

93.9(2) Electric boilers of a design employing a removable top cover flange for inspection and cleaning need not be fitted with washout openings.

875—93.10(89) Fixtures and fittings. All valves, pipe fittings, and appliances connected to a miniature power boiler shall be equal to at least the minimal requirements of the construction or installation code and shall be rated for not less than the maximum allowable working pressure of the miniature power boiler. In no case shall the rating be for less than 125 pounds.

These rules are intended to implement Iowa Code chapter 89.

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ARC 8890C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to steam heating boilers, hot water heating boilers and hot water supply boilers

The Labor Services Division hereby rescinds Chapter 94, "Steam Heating Boilers, Hot Water Heating Boilers and Hot Water Supply Boilers," 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 89.14.

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 94 that requires certain construction and installation standards for specified boilers.

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 8370C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 94 and adopt the following **new** chapter in lieu thereof:

CHAPTER 94

STEAM HEATING BOILERS, HOT WATER HEATING BOILERS AND
HOT WATER SUPPLY BOILERS

875—94.1(89) Scope. This chapter applies to:

- 94.1(1)** Steam boilers for operation at pressures not exceeding 15 psig;
- 94.1(2)** Hot water heating boilers for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F at or near the boiler outlet;
- 94.1(3)** Hot water supply boilers.

875—94.2(89) Codes adopted by reference. The codes listed in 481—Chapter 91 apply to objects covered by this chapter.

875—94.3(89) General requirements. This rule applies to all objects covered by this chapter and installed prior to September 20, 2006.

94.3(1) *Instruments, fittings and controls mounted inside boiler jackets.* Any or all instruments, fittings and controls required by this chapter may be installed inside of boiler jackets provided the water gage and pressure gage on a steam boiler or the thermometer and pressure gage on a water boiler are visible through an opening or openings at all times.

94.3(2) *Electrical code compliance.*

a. Wiring. All wiring for controls, heat-generating apparatus and other appurtenances necessary for the operation of the boiler or boilers will be in accordance with the National Electric Code (1992). All boilers supplied with factory-mounted and factory-wired controls, heat-generating apparatus and other appurtenances necessary for the operation of the boilers will be installed in accordance with the provisions of nationally recognized standards.

b. Circuitry. The control circuitry will be grounded and will operate at 150 volts or less. One of the two following systems may be employed to provide the control circuit:

- (1) Two-wire, nominal 120-volt system with separate equipment ground conductor as follows:

1. This system will consist of the line, neutral and equipment ground conductors. The control panel frame and associated control circuitry metallic enclosures will be electrically continuous and be bonded to the equipment ground conductor.

2. The equipment ground conductor and the neutral conductor will be bonded together at their origin in the electrical system for objects installed prior to September 20, 2006.

3. The line side of the control circuit will be provided with a time delay fuse sized as small as practicable.

(2) Two-wire, nominal 120-volt system obtained by using an isolation transformer as follows:

1. The two-wire control circuit will be obtained from the secondary side of an isolation transformer, will be electrically continuous and will be bonded to a convenient cold water pipe. All metallic enclosures of control components will be securely bonded to this ground control circuit wire. The primary side of the isolation transformer will normally be a two-wire source with a potential 230, 208 or 440 volts.

2. Both sides of the two-wire primary circuit will be fused. The hot leg on the load side of the isolation transformer will be fused as small as practicable, and will not be fused above the rating of the isolation transformer.

94.3(3) *Safety and safety relief valve discharge piping.* When a discharge pipe is used, its internal cross-sectional areas will not be less than the full area of the valve outlet or of the total of the valve outlets discharging therein and will be as short and straight as possible and so arranged as to avoid undue stress on the valve or valves. When an elbow is placed on a safety valve or safety relief valve discharge pipe, the elbow will be located close to the valve outlet.

94.3(4) *Expansion and contraction.* Provisions will be made for the expansion and contraction of steam and hot water mains connected to boilers.

94.3(5) *Return pipe connections.* The return pipe connections of each boiler supplying a gravity-return steam heating system will be so arranged as to form a loop so that the water in each boiler cannot be forced out below the safe water level.

94.3(6) *Feed water connections.*

a. Feed water, makeup water or water treatment will be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent feed water connection will not discharge against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment will not be introduced through openings or connections provided for inspection, cleaning, safety valves, safety-relief valves, blowoffs, water columns, water gage glasses, pressure gages or temperature gages.

b. The makeup water pipe will be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

94.3(7) *Oil heaters.*

a. A heater for oil or other liquid harmful to boiler operation will not be installed directly in the steam or water space within a boiler.

b. Where an external-type heater for such service is used, means will be provided to prevent the introduction into the boiler of oil or other liquid harmful to boiler operation.

94.3(8) *Bottom blowoff or drain valve.*

a. Each boiler will have a bottom blowoff or drain pipe connection fitted with a valve or cock connected with the lowest water space practicable, with the minimum size of blowoff piping and valves as specified below:

Minimum Required Safety or Safety-Relief Valve Capacity (Pounds of Steam Per Hour)	Size of Blowoff Valves (Inches)
Up to 500	$\frac{3}{4}$
501 to 1250	1
1251 to 2500	1 $\frac{1}{4}$
2501 to 6000	1 $\frac{1}{2}$
6001 and larger	2

NOTE: Multiply 1,000 by the relieving capacity in pounds of steam per hour to determine the Btu of safety relief valve discharge capacity.

b. Any discharge piping connected to bottom blowoff or bottom drain connections will be full size to the point of discharge.

94.3(9) *Low-water fuel cutoff.*

a. Each automatically fired hot water heating boiler will have an automatic low-water fuel cutoff that has been designed for hot water service, and it will be so located as to automatically cut off the fuel supply when the surface of the water falls to the level established.

b. As there is no normal waterline to be maintained in a hot water heating boiler, any location of the low-water fuel cutoff above the lowest safe permissible water level established by the boiler manufacturer is satisfactory.

c. A coil-type boiler or a watertube boiler requiring forced circulation to prevent overheating of the coils or tubes will have a flow-sensing device installed in the outlet piping in lieu of the low-water fuel cutoff to automatically cut off the fuel supply when the circulating flow is interrupted.

875—94.4(89) Steam heating boilers installed before July 1, 1960—requirements. All steam heating boilers installed before July 1, 1960, shall be constructed and installed in accordance with this rule.

94.4(1) *Safety valves.*

a. Each steam boiler will have one or more safety valves bearing the National Board “HV” stamp of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals will be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves will be arranged so that they cannot be set to relieve at a higher pressure than the maximum allowable working pressure of the boiler. For iron and steel bodied valves exceeding 2-inch pipe size, the drain hole or holes will be tapped not less than 3/8-inch pipe size.

b. The safety valves will be located in the top or side of the boiler. They will be connected directly to a tapped or flanged opening in the boiler, to a fitting connected to the boiler by a short nipple, to a Y-base, or to a valveless header connecting steam or water outlets on the same boiler. Coil or header type boilers will have the safety valve located on the steam outlet end. Safety valves will be installed with their spindles vertical. The opening or connection between the boiler and any safety valve will have at least the area of the valve inlet.

c. Safety valves ½-inch or more in diameter that are installed on a steam boiler will have a hand-lifted device that will positively lift the disk from its seat at least 1/16 inch when there is no pressure in the boiler. The seats and disks will be of noncorrosive material.

d. Safety valves for a steam boiler will be at least ½ inch unless the boiler and radiating surfaces consist of a self-contained unit. Safety valves will not be larger than 4½ inches. The inlet opening will have an inside diameter equal to or greater than the seat diameter.

e. The minimum relieving capacity of the valve or valves will be governed by the capacity marking on the boiler.

f. The minimum valve capacity in pounds per hour will be equal to the steam generation as specified in 481—subrules 92.6(9) and 92.6(10).

g. The safety valve capacity for each steam boiler will be such that with the fuel burning equipment operated at maximum capacity the pressure will not rise more than 5 percent above the maximum allowable working pressure.

h. When operating conditions are changed or additional boiler heating surface is installed, the valve capacity will meet the new conditions.

94.4(2) *Steam gages.*

a. Each steam boiler will have a steam gage or a compound steam gage connected to its steam space, its water column, or to its steam connection. The gage or connection will contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gage tube. The connection will be so arranged that the gage cannot be shut off from the boiler except by a cock placed in the pipe at the gage and provided with a tee or lever-handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler will be not less than

¼-inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, it will be not less than ½-inch standard pipe size. The minimum size of a siphon, if used, will be ¼-inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe size listed above may be substituted for pipe.

b. The scale on the dial of a steam boiler gage will be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from zero to 30 psig pressure will be at least 3 inches on a compound gage, and effective stops will be set at the limits of the gage readings on both the pressure and vacuum sides of the gage.

94.4(3) Water gage glasses.

a. Each steam boiler will have one or more water gage glasses attached to the water column or boiler by means of valved fittings not less than ½-inch pipe size with the lower fittings provided with a drain valve having an unrestricted drain opening not less than ¼-inch diameter to facilitate cleaning. Gage glass replacement will be possible under pressure. Water gage glass fittings may be attached directly to a boiler.

b. The lowest visible part of the water gage glass will be at least 1 inch above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there will be no danger of overheating any part of the boiler.

c. Transparent material other than glass may be used for the water gage provided that the material will remain transparent and has proved suitable for the pressure, temperature and corrosive conditions expected in service.

94.4(4) Water column and water level control pipes.

a. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler will be 1 inch. No outlet connections, except for damper regulator, feedwater regulator, steam gages or apparatus that does not permit the escape of any steam or water, except for manually operated blowdowns, will be attached to a water column or the piping connecting a water column to a boiler. If the water column, gage glass, low-water fuel cutoff or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type will be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached will be placed in the water piping connection at every right angle to facilitate cleaning. The water column drainpipe and valve will be not less than ¾-inch pipe size.

b. The steam connections to the water column of a horizontal firetube wrought boiler will be taken from the top of the shell or the upper part of the head, and the water connection will be taken from a point not above the center line of the shell. For a cast iron boiler, the steam connection to the water column will be taken from the top of an end section or the top of the steam header, and the water connections will be made on an end section not less than 6 inches below the bottom connection to the water gauge glass.

94.4(5) Pressure control.

a. In addition to the operating control for normal boiler operation, each individual, automatically fired steam heating boiler will have a high-limit, pressure-actuated combustion control that will cut off the fuel supply to prevent the pressure from rising over 15 psig. The separate controls may have a common connection to the boiler. Upon replacement of the high-limit, pressure-actuated combustion control, controls with manual reset will be installed.

b. In a multiple boiler installation where the operating pressure control may be installed in a header or other point common to all boilers and could be isolated from any or all of the boilers, there will be at least one high-limit, pressure-actuated combustion control mounted on each boiler.

c. No shutoff valve of any type will be placed in the connection to the high-limit, pressure-actuated control. The control or connections will contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the control. The connections to the boiler will not be less than ¼-inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, the fittings will be not less than ½-inch standard pipe size. The minimum size of a siphon, if used, will be ¼-inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of

standard pipe size listed above may be substituted for pipe where a manifold is used for a multiple control. The connection to the boiler will not be less than ¼-inch standard pipe size.

94.4(6) Automatic low-water fuel cutoff or water-feeding device.

a. Each automatically fired steam or vapor system boiler will have an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest visible part of the water gage glass. If a water-feeding device is installed, it will be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feedwater.

b. A fuel cutoff or water-feeding device may be attached directly to a boiler or in the tapped openings available for attaching a water glass directly to a boiler. Connections in the tapped openings will be made to the boiler with nonferrous tees or “Ys” not less than ½-inch pipe size between the boiler and the water glass so that the water glass is attached directly and as closely as possible to the boiler. The run of the tee or “Y” will take the water glass fittings, and the side outlet or branch of the tee or “Y” will take the fuel cutoff or water-feeding device. The ends of all nipples will be reamed to full-size diameter.

c. Fuel cutoffs and water-feeding devices embodying a separate chamber will have a vertical straightway drainpipe and a blowoff valve not less than ¾-inch pipe size located at the lowest point in the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

94.4(7) Stop valves for single steam heating boilers. When a stop valve is used in the supply pipe connection of a single steam boiler, there will be one used in the return pipe connection.

94.4(8) Stop valves for multiple steam heating boilers. A stop valve will be used in each supply and return pipe connection of two or more boilers connected to a common system.

875—94.5(89) Hot water heating boilers installed before July 1, 1960—requirements. Hot water heating boilers installed before July 1, 1960, shall be constructed and installed in accordance with this rule.

94.5(1) Safety relief valves.

a. Each hot water heating boiler will have at least one safety relief valve bearing the National Board “HV” stamp of the automatic-resetting type set to relieve at or below the maximum allowable working pressure of the boiler. The safety relief valve will have pop action when tested by steam. When more than one safety relief valve is used on a hot water heating boiler, the additional valve or valves must bear the National Board “HV” stamp and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves will be so arranged that they cannot be reset to relieve at a higher pressure.

b. No safety relief valve will be smaller than ¾-inch nor larger than 4½-inch standard pipe size, except those boilers having a heat input not greater than 15,000 Btu per hour may be equipped with a safety relief valve of ½-inch standard pipe size bearing the National Board “HV” stamp. The inlet opening will have an inside diameter equal to or greater than the seat diameter. In no case will the minimum opening through any part of the valve be less than ½-inch diameter.

94.5(2) Temperature and pressure gage.

a. Each hot water boiler will have a temperature and pressure gage properly calibrated to the altitude connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gage. The handle of the cock will be parallel to the pipe in which it is located when the cock is open.

b. The scale on the dial of the temperature and pressure gage will be graduated approximately to not less than one and one-half nor more than three times the pressure at which the safety relief valve is set. The gage will be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point.

c. The temperature gage will be so located and connected that it will be easily readable. The thermometer will be so located that it will at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

d. Piping or tubing for temperature and pressure gage connections will be of nonferrous metal when smaller than 1-inch pipe size.

94.5(3) Temperature control.

a. In addition to the operating control used for normal boiler operation, each individual, automatically fired hot water boiler will have a separate high-limit, temperature-actuated combustion control that will cut off the fuel supply to prevent the temperature of the water from rising over 250 degrees F. Separate controls may have a common connection to the boiler.

b. In a multiple boiler installation where the operating temperature actuated control may be installed in a header or other point common to all boilers and can be isolated from any or all of the boilers, there will be at least one high-limit, temperature-actuated combustion control mounted on each boiler.

94.5(4) Stop valves.

a. On single hot water heating boilers, stop valves will be located at an accessible point in the supply and return pipe connections as near the boiler nozzle as is convenient and practicable to permit draining the boiler without emptying the system.

b. Where two or more boilers are connected in a common system, a stop valve will be used in each boiler's supply and return pipe connection.

94.5(5) Provisions for thermal expansion in hot water heating system.

a. All hot water heating systems incorporating hot water tanks or fluid relief columns will be so installed as to prevent freezing under normal operating conditions.

b. Systems with open expansion tanks require an indoor overflow from the upper portion of the expansion tank in addition to an open vent. The indoor overflow is to be carried within the building to a suitable plumbing fixture or to the basement.

c. An expansion tank adequate for the volume and capacity of the system will be installed. If the system is designed for a working pressure of 30 psi or less, the tank will be suitably designed for a minimum hydrostatic test pressure of 75 psi. Expansion tanks for systems designed to operate above 30 psi will be constructed in accordance with ASME Code, Section VIII, Division I, in effect when installed. Provisions will be made for draining the tank without emptying the system, except for prepressurized tanks.

d. The expansion tank capacities for gravity hot water heating systems will be as follows:

Sq. Ft. of Installed Equivalent Direct Radiation	Tank Capacity, Gallons
Up to 350	18
Up to 450	21
Up to 650	24
Up to 900	30
Up to 1,100	35
Up to 1,400	40
Up to 1,600	2-30
Up to 1,800	2-30
Up to 2,000	2-35
Up to 2,400	2-40
2,400 and up	1 additional gallon per 33 square feet of additional equivalent direction radiation

e. The expansion tank capacities for forced hot water heating systems will be based on an average operating water temperature of 195 degrees F, a fill pressure of 12 psig, and a maximum operating pressure of 30 psig as follows:

System Volume, Gallons	Tank Capacity, Gallons

100	15
200	30
300	45
400	60
500	75
1,000	150
2,000	300

In calculating, include the volume of water in boiler, radiation and piping but not the expansion tank.

875—94.6(89) Hot water supply boilers installed before July 1, 1960—requirements.

94.6(1) Scope. This rule establishes minimum requirements for installation, operation, and inspection of hot water supply boilers installed before July 1, 1960, when any of the following limitations are exceeded:

- a. Heat input of 200,000 Btu per hour.
- b. Water temperature of 210 degrees F.
- c. A water containing capacity of 120 gallons.

94.6(2) Safety relief valves. Each hot water supply boiler must have at least one pressure and temperature relief valve bearing the National Board “HV” stamp installed on the hot water outlet line.

94.6(3) Safety valves and safety relief valves for tanks and heat exchangers.

a. When a hot water supply vessel is heated indirectly by steam in a coil or pipe, the pressure of the steam used will not exceed the safe working pressure of the tank. A safety relief valve at least 1 inch in diameter will be installed on the tank and will be set to relieve at or below the maximum allowable working pressure of the tank.

b. When water over 160 degrees F is circulated through the coils or tubes of a heat exchanger to warm the water for space heating or hot water supply, the heat exchanger will be equipped with one or more safety relief valves bearing the National Board “HV” stamp of sufficient rated capacity to prevent the heat exchanger pressure from rising more than 10 percent above the maximum allowable working pressure of the vessel. The valves will be set to relieve at or below the maximum allowable working pressure of the heat exchanger.

c. When water over 160 degrees F is circulated through the coils or tubes of a heat exchanger to generate low-pressure steam, the heat exchanger will be equipped with one or more safety valves bearing the National Board “HV” stamp of sufficient rated capacity to prevent the heat exchanger pressure from rising more than 5 psig above the maximum allowable working pressure of the vessel. The valves will be set to relieve at a pressure not to exceed 15 psig.

94.6(4) Gages. Temperature and pressure gages will be installed in accordance with 94.5(2).

94.6(5) Temperature controls. Temperature controls will be installed in accordance with 94.5(3).

94.6(6) Stop valves.

a. Stop valves will be placed in the supply and return pipe connections of a single hot water supply boiler installation to permit draining the boiler without emptying the system.

b. Where two or more boilers are connected in a common system, a stop valve will be used in each boiler’s supply and return pipe connection.

94.6(7) Thermal expansion. If a system is equipped with a check valve or pressure-reducing valve in the cold water inlet line, an airtight expansion tank or other suitable air cushion will be installed. When an expansion tank is provided, it will be constructed in accordance with the ASME Code, Section VIII, Division 1, in effect when installed, for a maximum allowable working pressure equal to or greater than the water heater. Except for prepressurized tanks, provisions will be made for draining the tank without emptying the system.

These rules are intended to implement Iowa Code chapter 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8891C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to unfired steam pressure vessels

The Labor Services Division hereby rescinds Chapter 96, "Unfired Steam Pressure Vessels," 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 89.14.

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 96 that provides the applicable standards and the maximum allowable working pressure for unfired steam pressure vessels installed prior to July 1, 1983.

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 8371C**. 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 22, 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, pursuant to 875—Chapter 81.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 96 and adopt the following **new** chapter in lieu thereof:

CHAPTER 96
UNFIRED STEAM PRESSURE VESSELS

875—96.1(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

875—96.2(89) Objects installed prior to July 1, 1983—requirements.

96.2(1) Maximum allowable working pressure.

a. The maximum allowable working pressure for code-stamped unfired steam pressure vessels will be determined in accordance with the applicable provisions of the ASME Code or American Petroleum Institute Code under which they were constructed and stamped.

b. The maximum allowable working pressure on the shell of unfired steam pressure vessels without a code stamp will be determined by the following equation:

$$\frac{TStE}{RFS} = \text{Maximum allowable working pressure, psig.}$$

Where:

- TS = Ultimate tensile strength of shell plate(s), psig. When the tensile strength of a steel plate(s) is unknown, it shall be taken as 55,000 psig for temperatures not exceeding 650 degrees F.
- t = Minimum thickness of shell plates of the weakest course, in inches.
- E = Efficiency of longitudinal joint. For riveted joints, use ASME Code, Section 1 (1971). For fusion-welded and brazed joints, use the following table:
- | | |
|------------------------------|----|
| Single lap welded | 40 |
| Double lap welded | 60 |
| Single butt welded | 60 |
| Double butt welded. | 75 |
| Forge welded. | 70 |
| Brazed steel. | 80 |
- R = Inside radius of the weakest course of shell or drum in inches, provided the thickness does not exceed 10 percent of the radius. If the thickness is over 10 percent of the radius, the outer radius shall be used.
- FS = Factor of safety shall be four.

c. The maximum allowable working pressure for unfired steam pressure vessels without an ASME stamp subjected to external or collapsing pressure will be determined by the ASME Code, Section VIII.

96.2(2) End closures. The maximum allowable working pressure permitted for formed heads under pressure will be determined by using the formulas in ASME Code, Section VIII.

96.2(3) Safety appliances. Each unfired steam pressure vessel will be protected by such safety and relief valves and indicating and controlling devices as will ensure its safe operation. Valves will not readily be rendered inoperative. The relieving capacity of safety valves will be such as to prevent a rise of pressure in the vessel of more than 10 percent above maximum allowable working pressure, taking into account the effect of static head. Safety valve discharges will be carried to a safe place.

These rules are intended to implement Iowa Code chapter 89.

[Filed 1/24/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8933C

LOTTERY AUTHORITY, IOWA[531]

Adopted and Filed

Rulemaking related to general operation of the lottery, purchasing, prizes, licensing, licensed retailers, monitor vending machines, instant ticket general rules, pull-tab general rules, computerized games—general rules, and drawings and contests

The Lottery Authority, Iowa hereby rescinds Chapter 1, “General Operation of the Lottery,” Chapter 2, “Purchasing,” Chapter 11, “Prizes,” Chapter 12, “Licensing,” Chapter 13, “Licensed Retailers,” Chapter 14, “Monitor Vending Machines,” Chapter 18, “Instant Ticket General Rules,” Chapter 19, “Pull-Tab General Rules,” Chapter 20, “Computerized Games—General Rules,” and Chapter 21, “Drawings and Contests,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 99G.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.9, 99G.21, 99G.25, 99G.30, 99G.31 and 99G.35.

Purpose and Summary

Chapters 1, 2, 11, 12, 13, 14, 18, 19, 20, and 21 are all dedicated to the operation of the Iowa Lottery. As a part of the government reorganization pursuant to 2023 Iowa Acts, Senate File 514, the Department of Revenue rescinded the existing chapters under agency [531] and adopted them as new chapters under 701—Chapters 1100 through 1107 in separate rulemakings.

Additionally, Chapter 14 is rescinded in its entirety. The statutes that the chapter implemented have been repealed and the chapter contains obsolete and unnecessary language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8342C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

- ITEM 1. Rescind and reserve **531—Chapter 1.**
- ITEM 2. Rescind and reserve **531—Chapter 2.**
- ITEM 3. Rescind and reserve **531—Chapter 11.**
- ITEM 4. Rescind and reserve **531—Chapter 12.**
- ITEM 5. Rescind and reserve **531—Chapter 13.**
- ITEM 6. Rescind and reserve **531—Chapter 14.**
- ITEM 7. Rescind and reserve **531—Chapter 18.**
- ITEM 8. Rescind and reserve **531—Chapter 19.**
- ITEM 9. Rescind and reserve **531—Chapter 20.**
- ITEM 10. Rescind and reserve **531—Chapter 21.**

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8934C

LOTTERY AUTHORITY, IOWA[531]

Adopted and Filed

**Rulemaking related to procedure for rulemaking, waiver rules,
contested cases, and declaratory orders**

The Lottery Authority, Iowa hereby rescinds Chapter 3, "Procedure for Rule Making," Chapter 4, "Waiver Rules," Chapter 5, "Contested Cases," and Chapter 6, "Declaratory Orders," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this rulemaking is to implement the state government realignment provisions of 2023 Iowa Acts, Senate File 514. This rulemaking eliminates rules on agency procedure that are redundant, unnecessary, and outdated. The Department of Revenue's new agency procedure rules will make applicable practices across subject matters as uniform as possible and reduce confusion with current existing rules.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8343C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

- ITEM 1. Rescind and reserve **531—Chapter 3**.
- ITEM 2. Rescind and reserve **531—Chapter 4**.
- ITEM 3. Rescind and reserve **531—Chapter 5**.
- ITEM 4. Rescind and reserve **531—Chapter 6**.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8970C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to maternal deaths

The Department of Health and Human Services hereby rescinds Chapter 5, "Maternal Deaths," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.11.

Purpose and Summary

The purpose of this chapter is to allow for the procurement and timely confidential review of maternal death and birth records, which inform death prevention recommendations and efforts.

The State Mortality Review Committee (2024 Iowa Acts, Senate File 2385) prompted the centralization of death review teams. Chapter 5 is being rescinded and centralized with 641—Chapters 90, 91 and 92. Procurement and review will continue to occur as part of this centralized chapter and as a subcommittee of the State Mortality Review Committee.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8576C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 17, 2025

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 Department on January 31, 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

There is no waiver provision because 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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 5**.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8913C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to state plumbing code

The Plumbing and Mechanical Systems Board hereby rescinds Chapter 25, "State Plumbing Code," 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 105.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 105 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 25. This rulemaking implements Iowa Code section 105.4 in accordance with the goals and directives of Executive Order 10. Iowa Code section 105.4 requires that the Plumbing and Mechanical Systems Board establish by rule a plumbing installation code governing the installation of plumbing systems in the state. The Board is to adopt the most current version of the Uniform Plumbing Code (UPC) and may adopt amendments to the UPC so long as those amendments do not conflict with the fire safety rules and standards promulgated by the Department of Inspections, Appeals, and Licensing.

This rulemaking implements the aforementioned Iowa Code section by adopting the most current version of the UPC as the state plumbing code, with amendments. The Board took into consideration informal public comment provided during Board meetings in proposing these rules.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8669C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No public comment was received at the hearings.

Written comment was provided by the International Association of Plumbing and Mechanical Officials (IAPMO) in support of the rulemaking. IAPMO stressed that the code update ensures the safety of Iowans by providing access to safer and more reliable drinking water. IAPMO further indicated that the update aligns the state with meticulous and rigorously tested recommendations throughout the industry.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25 STATE PLUMBING CODE

641—25.1(105) Adoption. Sections 101 and 102, Chapters 2 to 17 and Appendices A and M of the Uniform Plumbing Code (UPC), 2024 Edition, as published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, California 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4. Portions of this chapter reproduce excerpts from the 2024 International Plumbing Code; Copyright 2023; Washington, D.C.: International Code Council www.ICCSAFE.org. Such excerpts are reproduced with permission, all rights reserved.

641—25.2(105) Applicability. The provisions of the UPC, as adopted and amended by this chapter, are applicable to the plumbing in buildings or on premises in Iowa. Local jurisdictions may not adopt other plumbing codes. Local jurisdictions may adopt additional amendments provided they are stricter than the UPC as amended by this chapter and copies of any local amendments are provided to the board.

641—25.3(105) Fuel gas piping. Fuel gas piping shall comply with the requirements of Chapter 12 of the UPC, 2024 Edition, unless the provisions conflict with 661—Chapter 226, in which case 661—Chapter 226 governs.

641—25.4(105) Amendments to Uniform Plumbing Code. The UPC, as adopted by reference in rule 641—25.1(105), is amended as follows:

25.4(1) The following amendment apply to UPC Chapter 1: Section 101.2 Scope. Modify the section by adding the following sentence to the end of the section: “Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in this code. Permit, inspection, testing, and enforcement provisions contained in this code are not administered by the Plumbing and Mechanical Systems Board or the state.”

25.4(2) The following amendments shall apply to UPC Chapter 3:

a. Section 301.5 Alternative Engineered Design. Modify the section by adding the following sentence to the end of the section: “No engineered single-stack drainage system shall be installed.”

b. Section 309.6 Dead Legs. Modify the section by adding the following sentence to the end of the section: “The authority having jurisdiction can determine the method of flushing.”

c. Subsection 314.4.1 Installation of Thermoplastic Pipe and Fittings. Trench width for thermoplastic pipe shall be limited to six times the outside diameter of the piping at the base and thermoplastic piping be bedded in not less than 4 inches (102 mm) of aggregate bedding material supporting the pipe. Initial backfill shall encompass the pipe, and aggregate material shall be three-eighths (3/8) inch p-gravel or 1-inch clean class one bedding.

25.4(3) The following amendments shall apply to UPC Chapter 4:

a. Section 402.5 Setting. Modify the section by adding the following sentence to the end of the section that begins “Exception:”: The installation of paper dispensers, sanitary napkin disposal unit or accessibility grab bars shall not be considered obstructions.

b. Section 407.3 Limitation of Hot Water Temperature for Public Lavatories. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

c. Section 408.12 Showers. Create a new Section 408.12 stating: “Limitation of Hot Water Temperature of Pet Grooming Stations. The maximum hot water temperature discharging from pet grooming stations shall be limited to 120°F (49°C) and the maximum temperature regulated by one of the following means, which shall be installed at or as close as possible to the point of use:

“(1) A limiting device conforming to ASSE1070, ASMEA112.1070, CSAB125.70, or CSAB125.3.

“(2) A water heater conforming to ASSE 1084.”

d. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

e. Section 410.3 Limitation of Water Temperature in Bidets. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

f. Section 416.5 Drain. Modify the section by deleting the last sentence, which states: “Where a drain is provided, the discharge shall be in accordance with Section 811.0.”

g. Section 418.3 Location of Floor Drains. Modify the section by adding the following to the end of the section: “(5) Rooms equipped with a water heater.”

h. Section 422.1 Fixture Count.

Modify the section by deleting the first paragraph and inserting the following in lieu thereof: “Plumbing fixtures shall be provided in each building for the type of building occupancy and in the minimum number shown in Table 403.1 of the International Plumbing Code, reprinted here as Table 422.1. The design occupant load and occupancy classification shall be determined in accordance with the state building code or the authority having jurisdiction. Required public facilities shall be designated by a legible sign for each sex and signs be readily visible and located near the entrance to each toilet facility.”

i. Table 422.1 Minimum Plumbing Facilities. Delete the table and insert the following table in lieu thereof.

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a									
(See Sections 403.1.1 and 403.2)									
(Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly	Theaters and other buildings for the performing arts and motion pictures ^d	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Nightclubs, bars, taverns, dance halls and buildings for similar purposes ^d	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
		Restaurants, banquet halls and food courts ^d	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		Gaming areas	1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400	1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400	1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750		—	1 per 1,000	1 service sink
		Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums ^d	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		Passenger terminals and transportation facilities ^d	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
		Places of worship and other religious services ^d	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink
		Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder	1 per 40 for the first 1,520 and 1 per 60 for the remainder	1 per 200	1 per 150	—	1 per 1,000	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
1	Assembly (cont'd)		exceeding 1,500	exceeding 1,520					
		Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink ^c
3	Educational	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		—	1 per 400	1 service sink
5	Institutional	Custodial care facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Medical care recipients in hospitals and nursing homes	1 per room ^c		1 per room ^c		1 per room ^c	1 per 100	1 service sink
		Employees in hospitals and nursing homes ^b	1 per 25		1 per 35		—	1 per 100	
		Visitors in hospitals and nursing homes	1 per 75		1 per 100		—	1 per 100	
		Prisons ^b	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
5	Institutional (cont'd)	Reformatories, detention centers, and correctional centers ^b	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
		Employees in reformatories, detention centers and correctional centers ^b	1 per 25		1 per 35		—	1 per 100	—
		Adult day care and child day care	1 per 15		1 per 15		1	1 per 100	1 service sink
6	Mercantile	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink ^c
7	Residential	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit		1 kitchen sink per dwelling unit; 1 automatic clothes

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (See Sections 403.1.1 and 403.2) (Reprinted with permission,* from the 2018 International Plumbing Code, excerpt from IPC Table 403.1)									
NO.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 422.7)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN (SEE SECTION 415.0)	OTHER
			MALE	FEMALE	MALE	FEMALE			
7	Residential (cont'd)								washer connection per dwelling unit
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	Structures for the storage of goods, warehouses, storehouse and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		—	1 per 1,000	1 service sink

^a The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.

^b Toilet facilities for employees shall be separate from facilities for inmates or care recipients.

^c A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted provided that each patient sleeping unit has direct access to the toilet room and provision for privacy for the toilet room user is provided.

^d The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.

^e For business and mercantile classifications with an occupant load of 15 or fewer, service sinks will not be required.

*Excerpted (with modifications) from Table 403.1 of the 2018 International Plumbing Code; Copyright 2017; Washington, D.C.: ICC. Reproduced with permission. All rights reserved. www.ICCSAFE.org

j. Insert the following text at the end of Chapter 4:

“422.8 Substitution for Water Closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies and not be substituted for more than 50 percent of the required water closets in all other occupancies. (Reprinted from the 2021 International Plumbing Code section 424.2)”

25.4(4) The following amendments shall apply to UPC Chapter 6:

a. Section 603.4.8 Drain Lines. Modify the section by adding the following language to the end of the last sentence in the section: “or in accordance with the manufacturer’s drain-sizing chart for installation.”

b. Section 609.1 Installation. Insert the following: “Building supply yard piping shall be not less than 60 inches below earth cover.”

c. Section 609.12 Pipe Insulation. Delete Sections 609.12 through 609.12.2 and insert the following in lieu thereof:

“Section 609.12 Pipe Insulation. Insulation of domestic hot water piping shall be in accordance with the state applicable energy conservation code.”

d. Section 611.4 Sizing of Residential Softeners. Modify the section by adding the following to the end of the last sentence in the section: “or as specified in the manufacturer’s installation instructions.”

e. Section 612 Residential Fire Sprinkler Systems. Delete sections 612.0 through 612.7.2.

25.4(5) The following amendments shall apply to UPC Chapter 7:

a. Section 702.1 Trap Size. Table 702.1 Note 9. Modify this note by deleting “a maximum shower size of 36 inches (914 mm) in width and 60 inches (1524 mm) in length” and inserting the following in lieu thereof: “showers having only one shower head rated at a maximum of 2.5 gpm.”

b. Section 710.1 Backflow Protection. Modify the section by adding the following sentences to the end of the section: “The requirement for the installation of a backwater valve shall apply only when determined necessary by the Authority Having Jurisdiction based on local conditions. When a valve is required by the Authority Having Jurisdiction, it will be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required.”

25.4(6) The following amendments shall apply to UPC Chapter 8:

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

b. Section 814.5 Point of Discharge. Delete Section 814.5 and insert the following in lieu thereof:

“Section 814.5 Point of Discharge. Air-conditioning condensate waste pipes shall connect indirectly to a properly trapped fixture, floor drain, or open sight drain, or where permitted in Section 814.6, to the drainage system through an air gap or air break to trapped and vented receptors, dry wells, leach pits, sump pump, the tailpiece of plumbing fixtures or indirectly to the building storm sewer through a roof drain. A condensate drain shall be trapped in accordance with appliance manufacturer’s instructions or as approved.”

25.4(7) The following amendments shall apply to UPC Chapter 9:

- a. Section 901.1 Applicability. Modify the section by adding the following sentence to the end of the section: “No engineered single-stack drainage systems shall be installed.”
- b. Section 906.1 Roof Termination. Modify the section by deleting the last sentence.
- c. Section 908.2.2 Size. Delete the second sentence in this section and insert the following new sentence in lieu thereof: “The wet vent shall be not less than 2 inches (50 mm) in diameter for 6 drainage fixture units (dfu) or less, and not less than 3 inches (80 mm) in diameter for 7 dfu or more.”

25.4(8) The following amendments shall apply to UPC Chapter 10:

- a. Table 1002.2 Horizontal Lengths of Trap Arms. Delete the table and insert the following table in lieu thereof:

TABLE 1002.2
Horizontal Lengths of Trap Arms
(Except for Water Closets and Similar Features)^{1,2}

Trap Arm Diameter (inches)	Distance Trap to Vent Minimum (inches)	Length Maximum (feet)
1¼	2½	5
1½	3	6
2	4	8
3	6	12
4	8	12
Exceeding 4	2 × Diameter	12

For SI units: 1 inch = 25.4 mm

Notes:

¹Maintain ¼ inch per foot slope (20.8 mm/m).

²The developed length between the trap of a water closet or similar fixture (measured from the top of the closet flange to the inner edge of the vent) and its vent shall not exceed 6 feet (1829 mm).

- b. Section 1014.1.3 Food Waste Disposers and Dishwashers. Modify the section by deleting the second sentence and inserting the following in lieu thereof: “Commercial food waste disposers shall discharge into the building’s drainage system in accordance with the requirements of the Authority Having Jurisdiction.”

25.4(9) The following amendments shall apply to UPC Chapter 12:

- a. Sections 1205.0 through 1205.2 Authority to Render Gas Service. Delete the sections.
- b. Sections 1207.0 and 1207.1 Temporary Use of Gas. Delete the sections.
- c. Subsection 1208.5.3.5 Corrugated Stainless Steel Tubing. Delete subsection 1208.5.3.5 and insert the following in lieu thereof:

Subsection 1208.5.3.5 Corrugated Stainless Steel Tubing. Only CSST with an arc-resistant jacket or covering system listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed, in accordance with the terms of its approval, the conditions of listing, the manufacturer’s instructions and this code, including electrical bonding requirements in Section 1211.2. CSST shall not be used for through-wall penetrations from the point of delivery of the gas supply to the inside of the structure and not be installed in locations where subject to physical damage unless protected in an approved manner.

- d. Section 1211.3 Arc-Resistant Jacketed CSST. Delete the section.

25.4(10) The following amendment shall apply to UPC Chapter 13:

Section 1306.3 Report Items. Modify the section by deleting “Authority Having Jurisdiction” and inserting “responsible facility authority” in lieu thereof.

641—25.5(105) Backflow prevention with containment. Cities with populations of 15,000 or greater as determined by the 2010 census or any subsequent regular or special census shall have a backflow prevention program with containment. The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, 2024 Edition.

25.5(1) Definitions. The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, 2024 Edition, or are modified from those definitions for the purposes of rule 641—25.5(105) only.

a. Administrative authority. The administrative authority for this rule is the city council and its designees or, with respect to private water utilities, the Iowa utilities board.

b. Approved backflow prevention assembly for containment. Approved backflow prevention assembly for containment means a backflow prevention assembly that is approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. The approval listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly shall also be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitary Engineering (ASSE) as having met the requirements of one of the standards listed below.

Standard	Product Covered
ANSI [□] /ASSE* 1013-2009	Reduced Pressure Principle Backflow Preventers
ANSI [□] /ASSE* 1015-2009	Double Check Backflow Prevention Assembly
ANSI [□] /ASSE* 1047-2009	Reduced Pressure Detector Backflow Preventer
ANSI [□] /ASSE* 1048-2009	Double Check Detector Assembly Backflow Preventer
ANSI [□] /AWWA [†] C510-07	Double Check Valve Backflow Prevention Assembly
ANSI [□] /AWWA [†] C511-07	Reduced-Pressure Principle Backflow Prevention Assembly

[□]American National Standards Institute, 1899 L Street NW, 11th Floor, Washington, DC 20036

*American Society of Sanitary Engineering, 18927 Hickory Creek Drive #220, Mokena, IL 60448

[†]American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235

c. Approved backflow prevention assembly for containment in a fire protection system. Approved backflow prevention assembly for containment in a fire protection system means a backflow prevention assembly to be used in a fire protection system that meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters Laboratory (UL) in addition to the requirements of 25.5(1) “b.”

d. Containment. Containment is a method of backflow prevention that requires a backflow prevention assembly on certain water services. Containment requires that the backflow prevention assembly be installed on the water service as close to the public water supply main as is practical.

e. Customer. Customer means the owner, operator or occupant of a building or property that has a water service from a public water system, or the owner or operator of a private water system that has a water service from a public water system.

f. Degree of hazard. Degree of hazard means the rating of a cross connection or a water service that indicates whether it has the potential to cause contamination (high hazard) or pollution (low hazard).

g. Water service. Depending on the context, water service is the physical connection between a public water system and a customer’s building, property or private water system, or the act of providing potable water from a public water system to a customer.

25.5(2) Proposed water service.

a. No person shall install, or cause to have installed, a water service to a building, property or private water system before the administrative authority has evaluated the proposed water service for degree of hazard.

b. The administrative authority will require the submission of plans, specifications and other information deemed necessary for a building, property or private water system to which a water service is proposed. The administrative authority will review the information submitted to determine if cross connections will exist and the degree of hazard.

c. The owner of a building, property or private water system shall install, or cause to have installed, an approved backflow prevention assembly for containment as directed by the administrative authority before water service is initiated.

d. Reconstruction of an existing water service shall be treated as a proposed water service for the purposes of rule 641—25.5(135).

25.5(3) *Existing water services.*

a. Each customer shall survey the activities and processes that receive water from the water service and report to the administrative authority if cross connections exist and the degree of hazard.

b. The administrative authority may inspect the plumbing of any building, property and private water system that has a water service to determine if cross connections exist and the degree of hazard.

c. If, based on information provided through 25.5(3)“a” and “b,” the administrative authority determines that a water service may contaminate the public water supply, the administrative authority will require that the customer install the appropriate backflow prevention assembly for containment.

d. If a customer refuses to install a backflow prevention assembly for containment when it is required by the administrative authority, the administrative authority may order that water service to the customer be discontinued until an appropriate backflow prevention assembly is installed.

25.5(4) *Backflow prevention assemblies for containment.* The following standards shall apply:

a. Backflow prevention assemblies for containment will be installed immediately following the water meter or as close to that location as deemed practical by the administrative authority.

b. A water service determined to present a high hazard will be protected by an air gap or an approved reduced-pressure principle backflow prevention assembly.

c. A water service determined to present a low hazard will be protected by an approved double check valve assembly or as in 25.5(4)“b.”

d. A water service to a fire protection system will be protected from backflow in accordance with the recommendations of American Water Works Association Manual M14, fourth edition. Where backflow prevention is required for a fire protection system, an approved backflow prevention assembly for containment in a fire protection system will be used.

25.5(5) *Backflow incidents.*

a. The customer shall immediately notify the agency providing water service when the customer becomes aware that backflow has occurred in the building, property or private water system receiving water service.

b. The administrative authority may order that a water service be temporarily shut off when a backflow occurs in a customer’s building, property or private water system.

These rules are intended to implement Iowa Code chapter 105.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8914C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to state mechanical code

The Plumbing and Mechanical Systems Board hereby rescinds Chapter 61, “State Mechanical Code,” 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 105.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 105 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 61. This rulemaking implements Iowa Code chapter 105 in accordance with the goals and directives of Executive Order 10. Iowa Code section 105.4 requires that the Plumbing and Mechanical Systems Board establish by rule a mechanical installation code governing the installation of mechanical systems in the state. The Board is to adopt the most current version of the International Mechanical Code (IMC) and may adopt amendments to the IMC so long as those amendments do not conflict with the fire safety rules and standards promulgated by the Department of Inspections, Appeals, and Licensing.

This rulemaking implements the aforementioned Iowa Code section by adopting the most current version of the IMC as the state mechanical code, with amendments. The Board took into consideration informal public comment provided during Board meetings in proposing these rules.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8670C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

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 January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
STATE MECHANICAL CODE

641—61.1(105) Definitions. The following definitions apply to this chapter:

“*Ambulatory surgical center*” means a facility or portion thereof defined in Iowa Code section 135R.1.

“*Hospice*” means a facility licensed or seeking licensure pursuant to Iowa Code section 135J.2.

“*Hospital*” means a facility licensed or seeking licensure pursuant to Iowa Code chapter 135B.

“*Intermediate care facility*” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.6.

“*Life Safety Code*” means the 2012 edition of the Life Safety Code of the National Fire Protection Association, available at www.nfpa.org.

“*Nursing facility*” means the same as defined in Iowa Code section 135C.1.

641—61.2(105) Adoption by reference. Sections 101 and 102 and Chapters 2 through 15 of the International Mechanical Code, 2024 edition, published by the International Code Council, www.iccsafe.org, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings and premises in Iowa.

641—61.3(105) Amendments to International Mechanical Code. The International Mechanical Code (IMC), as adopted by reference in rule 641—61.2(105), is amended as follows:

61.3(1) In Section 101.2, delete the phrase “International Fuel Gas Code” and insert in lieu thereof “NFPA 54, National Fuel Gas Code, current edition; NFPA 58, Liquefied Petroleum Gas Code, current edition; the provisions of 661—Chapter 226; and the state plumbing code”.

61.3(2) Amend Section 102 by adopting new Section 102.12 as follows:

102.12 Local authority.

(a) Local jurisdictions may administer the permit, inspection, testing, and enforcement provisions contained in the state mechanical code adopted and amended by this chapter. Permit, inspection, testing, and enforcement provisions contained in this code are not administered by the Plumbing and Mechanical Systems Board or the state unless otherwise provided by law.

(b) Local jurisdictions may not adopt mechanical codes other than the state mechanical code adopted and amended by this chapter. Local jurisdictions may adopt additional amendments to the state mechanical code if the additional amendments are stricter than the state mechanical code as set forth in this chapter. Local jurisdictions that adopt additional amendments will provide copies of any local amendments to the board.

61.3(3) Amend Section 304.11 by deleting the last sentence and inserting in lieu thereof the following new exception:

Exception: Guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire lifetime of the roof covering. The devices shall be evaluated for possible replacement when the entire roof covering is replaced and be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

61.3(4) Amend Section 306.1 by deleting the last sentence and inserting in lieu thereof: “An unobstructed level working space at least 30 inches deep and 30 inches wide shall be provided on any side of equipment where service access is required. The authority having jurisdiction may approve service reductions prior to equipment installation, provided that the manufacturer’s instructions are met.”

61.3(5) Delete Section 306.2 and insert in lieu thereof the following new section:

306.2 Appliances in rooms and closets. Rooms and closets containing appliances shall be provided with a door and an unobstructed passageway measuring not less than 36 inches wide and 80 inches high and a level service space not less than 30 inches deep and 30 inches wide at the front service side of the appliance with the door open.

61.3(6) Amend Section 306.5 by:

a. Adding the following to the end of the section: "If the tenants of a multiple tenant building have, or are allowed to have, mechanical facilities on the roof or which penetrate the roof, then roof access ladders must be provided for use by all such tenants and their agents and contractors in a manner that does not require accessing space under the control of another tenant."

b. Deleting the following: "Exception: This section shall not apply to Group R-3 occupancies."

c. Adopting new Section 306.5.3 as follows:

306.5.3 Visual screening of rooftop equipment. Equipment screening shall not be installed to the rooftop unit or the curb of the rooftop unit unless specified in the mechanical equipment manufacturer's installation instructions.

61.3(7) Delete Section 401.1 and insert in lieu thereof the following new section:

401.1 Scope. This chapter shall govern the ventilation of spaces within a building intended to be occupied, and the buildings meet either the requirements of ASHRAE Standard 62.1, "Ventilation for Acceptable Indoor Air Quality," 2019 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; subslab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

61.3(8) Add the following footnote "i" related to the gym, stadium, arena (play area) category of the sports and amusement occupancy classification in Table 403.3.1.1, Minimum Ventilation Rates:

i. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.

61.3(9) Add the following footnote "j" to Table 403.3.1.1 anywhere the term "smoking lounges" appears:

j. For ventilation purposes, "smoking" includes both combustible tobacco products and accessories and electronic smoking devices and accessories.

61.3(10) Delete Section 504.9.2 and insert in lieu thereof the following new section:

504.9.2 Duct installation. Exhaust ducts shall:

a. Be supported at 4-foot (1,219 mm) intervals and secured in place;

b. The insert end of the duct will extend into the adjoining duct or fitting in the direction of airflow;

c. Not be joined by screws or similar fasteners that protrude into the inside of the duct.

61.3(11) Delete Subsection 506.3.13.3 and insert in lieu thereof the following new subsection:

506.3.13.3 Termination location. Exhaust outlets shall be located not less than 10 feet (3048 mm) horizontally from parts of the same or contiguous buildings, adjacent buildings and adjacent property lines; not less than 10 feet (3,048 mm) above the adjoining grade level; and not less than 20 feet horizontally/vertically from or not less than 5 feet above air intake openings and operable doors and windows into any building.

61.3(12) The first sentence of Section 507.3 is amended to read: "Type II hoods shall be installed above dishwashers capable of heating water beyond 140 degrees Fahrenheit and appliances that produce heat or moisture and do not produce grease or smoke as a result of the cooking process, except where the heat and moisture loads from such appliances are incorporated into the HVAC system design or into the design of a separate removal system."

61.3(13) Delete Section 508.1.1 and insert in lieu thereof the following new section:

508.1.1 Makeup air temperature. All kitchen makeup air systems shall be verified by a certified TAB (testing and balance) contractor to heat makeup air to within 10 degrees of room temperature set

point and the TAB contractor certified by NEBB, TABB, or other certifying organization as approved by the Authority Having Jurisdiction.

61.3(14) Amend Section 601.5 by adopting new paragraph “9” as follows:

9. Return air openings shall be located at least 18 inches from supply air openings and air throw directed away from return air openings to reduce short cycling of air. Exception: Factory-made concentric duct terminations.

61.3(15) Amend Section 601.5 by adopting new paragraph “10” as follows:

10. One return air opening per floor is required on a central duct return system per ACCA Manual D, Appendix 8, and return air transfer openings are required on all bedrooms when dedicated return air openings are not used.

61.3(16) Amend Section 603 by adopting new Section 603.1.1 as follows:

603.1.1 Duct location. Air plenums and ducts located in floor and wall cavities shall be separated from unconditioned space by construction with insulation to meet energy code requirements. These areas include but are not limited to exterior walls, cantilevered floors, and floors above garages.

61.3(17) Delete Section 604.3 and insert in lieu thereof the following new section:

604.3 Coverings and linings. Duct coverings and linings, including adhesives where used, shall have a flame spread index of not more than 25 and a smoke-development index of not more than 50, when tested in accordance with ASTM E84 or UL 723, using the specimen preparation and mounting procedures of ASTM E2231 and not flame, glow, smolder or smoke when tested in accordance with ASTM C411 at the temperature to which they are exposed in service. The testing temperature shall not fall below 250°F (121°C) and coverings and linings be listed and labeled. The use of an air gap to meet R-value requirements for duct insulation is prohibited.

61.3(18) Amend Subsection 607.6.2.1 by adopting new Subsections 607.6.2.1.3 and 607.6.2.1.4 as follows:

607.6.2.1.3 Access ceiling radiation dampers shall be provided with an approved means of access that is large enough to permit inspection and maintenance of the damper and its operating parts and dampers equipped with fusible links and internal operators be provided for both with either an access door that is not less than 12 inches (305 mm) square, or a removable duct section.

607.6.2.1.4 Identification ceiling radiation damper locations and access points shall be permanently identified on the exterior by a label or marking acceptable to the authority having jurisdiction.

61.3(19) Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code”.

641—61.4(105) Hospitals and health care facilities.

61.4(1) A hospital that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the hospital is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the hospital shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(2) A nursing facility or hospice that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the nursing facility or hospice is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the nursing facility or hospice shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(3) An intermediate care facility that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the intermediate care facility is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the intermediate care facility shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(4) An ambulatory surgical center that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the ambulatory surgical center is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the ambulatory surgical center shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.4(5) A religious nonmedical health care institution that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the provisions of the state mechanical code if the institution is in compliance with the provisions of rule 661—201.14(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the religious nonmedical health care institution shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

641—61.5(105) Enforcement. Any state or local jurisdiction retaining authority to perform inspections of mechanical installations in the state of Iowa will retain initial interpretive authority over the state mechanical code and may implement an appeals process with respect to such interpretation. Ultimate appeal of any initial interpretation may be made to the plumbing and mechanical systems board by the filing of a petition for declaratory order pursuant to Iowa Code chapter 17A and 481—Chapter 3 or the filing of a petition for waiver pursuant to Iowa Code chapter 17A and 481—Chapter 6.

These rules are intended to implement Iowa Code section 105.4.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8907C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to lead hazard notification process

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 69, “Renovation, Remodeling, and Repainting—Lead Hazard Notification Process,” 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 10A.903.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 10A.903 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 69. This rulemaking implements Iowa Code section 10A.903 in accordance with the goals and directives of Executive Order 10. Iowa Code section 10A.903 requires that the Department adopt rules to implement the renovation, remodeling, and repainting lead hazard notification process. Iowa Code section 10A.903(1)“b” further provides that the rules shall include but not be limited to an authorization that the lead hazard notification to parents or guardians of children attending a child-occupied facility may be completed by posting an informational sign and a copy of the approved lead-hazard information packet. The rules shall also address requirements for notification of

parents or guardians of the children visiting a child-occupied facility when the facility is vacant for an extended period of time.

This rulemaking implements the aforementioned Iowa Code section by setting forth standard procedures to ensure that notifications are appropriately provided. The rulemaking requires the certified lead professional to provide the pamphlet “Lead Poisoning: How to Protect Iowa Families” or the federal pamphlet “Renovate Right” prior to commencing applicable work. The rules further require a signed notification from the owner and adult occupant of dwelling units where renovation, remodeling, and repainting will be performed to acknowledge the potential lead hazards. Records must be kept for a minimum of three years.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8671C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

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 Department on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 69 and adopt the following **new** chapter in lieu thereof:

CHAPTER 69 RENOVATION, REMODELING, AND REPAINTING—LEAD HAZARD NOTIFICATION PROCESS

641—69.1(10A) Applicability. This chapter applies to all persons who perform renovation, remodeling, or repainting for compensation in target housing or a child-occupied facility.

641—69.2(10A) Definitions.

“Arithmetic mean” means the algebraic sum of data values divided by the number of data values. For example, the sum of the concentration of lead in several soil samples divided by the number of samples is the arithmetic mean.

“Certificate of mailing” means certified mail with return receipt or its equivalent.

“Chewable surface” means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew.

“Child-occupied facility” means the same as defined in Iowa Code section 10A.903. “Child-occupied facility” also includes any building where lead-based paint activities are conducted immediately prior to or during the conversion of the building to a child-occupied facility.

“Common area” means a portion of the building that is generally accessible to all occupants. This includes but is not limited to hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

“Compensation” means payment or reimbursement for services performed. Compensation is not limited to monetary considerations and includes payment of rent for rental units, receipt of a salary from the owner or manager of target housing, and receipt of a salary from the owner or operator of a child-occupied facility.

“Components” means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include but are not limited to interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, countertops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, facias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, latticework, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills or stools and troughs, casing, sashes and wells, and air conditioners.

“Department” means the department of inspections, appeals, and licensing.

“Dripline” means the area within three feet surrounding the perimeter of a building.

“Dust-lead hazard” means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead equal to or exceeding 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is equal to or greater than 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property.

“Dwelling unit” means a single, unified combination of rooms designed for use as a dwelling by one family.

“Emergency renovation, remodeling, or repainting” means renovation, remodeling, or repainting activities necessitated by nonroutine failures of equipment or a structure that were not planned but resulted from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or threatens equipment or property with significant damage.

“Friction surface” means an interior or exterior surface that is subject to abrasion or friction including but not limited to certain window, floor, and stair surfaces.

“Hazardous lead-based paint” means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is equal to or greater than the dust-lead hazard level, lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

“Housing for the elderly” means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older or an age recognized as elderly by a specific federal housing assistance program.

“Impact surface” means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

“Lead-based paint” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight.

“Lead-based paint hazard” means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

“Living area” means any area of a residential dwelling used by at least one child six years of age or less including but not limited to living rooms, kitchen areas, dens, playrooms, and children’s bedrooms.

“Mid-yard” means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

“Multifamily dwelling” means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or is intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

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

“Play area” means an area of frequent soil contact by children of less than six years of age as indicated by but not limited to factors including the following: the presence of play equipment (sandboxes, swing sets, and sliding boards), toys, or other children’s possessions, observations of play patterns, or information provided by parents, residents, caregivers, or property owners.

“Regulated entity” means any individual or company that is regulated by the department by virtue of these rules, the Iowa Code, or other official regulatory promulgation.

“Renovation, remodeling, repainting” means modifying any existing structure or portion of a structure where painted surfaces are disturbed, unless the activity fits the criteria of lead abatement as defined in rule 641—70.2(10A) and is performed by a certified lead abatement contractor as defined in rule 641—70.2(10A). This includes, but is not limited to, removing walls, ceilings, and other painted building components; window replacement; floor refinishing; and sanding, scraping, stripping, water blasting, or otherwise removing paint.

“Residential dwelling” means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including but not limited to garages, farm buildings, and fences, or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.

“Soil-lead hazard” means bare soil on residential real property or on the property of a child-occupied facility that contains total lead in excess of 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 400 parts per million.

“Target housing” means the same as defined in Iowa Code section 10A.903.

641—69.3(10A) Notification required in target housing. A person who performs renovation, remodeling, or repainting of target housing for compensation, except for emergency renovation,

remodeling, or repainting of target housing, and except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, shall do the following prior to commencing the work:

69.3(1) Provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the owner and adult occupant of each dwelling unit where renovation, remodeling, or repainting will be performed. The pamphlet shall be provided no more than 60 days prior to commencing the work.

69.3(2) Obtain a signed, dated acknowledgment from the owner and known adult occupant of each dwelling unit where renovation, remodeling, or repainting will be performed affirming receipt of the pamphlet prior to the start of renovation, remodeling, or repainting and are aware of the potential health hazards from remodeling, renovating, or repainting housing containing lead-based paint. The acknowledgment shall be obtained no more than 60 days prior to commencing the work, be completed prior to commencing the work, be clearly and legibly written, and include the following:

a. The owner's and occupant's names and the address of the residential dwelling undergoing renovation, remodeling, or repainting.

b. The following language:

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting housing containing lead-based paint or lead-based paint hazards.

c. The signature, and date of signature, of the owner and occupant below the statement from paragraph 69.3(2) "b." If a signature cannot be obtained from an adult occupant, the person must certify in writing that the pamphlet was delivered to the dwelling and that a written acknowledgment could not be obtained from an adult occupant. Such certification must include the address of the unit to be remodeled, renovated, or repainted; the date and method of delivery of the pamphlet; the name of the person delivering the pamphlet; the reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available); and a dated signature of the person conducting the renovation, remodeling, or repainting.

69.3(3) The acknowledgment from subrule 69.3(2) may be included as a separate sheet or as a part of any written contract or service agreement. If the parties use a written contract or agreement written in a language other than English, the acknowledgment text shall be written in the same language as the text of the contract or agreement.

69.3(4) In lieu of delivering the pamphlet and written acknowledgment, the person conducting the renovation, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgment at least seven days prior to beginning the work.

69.3(5) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting shall provide further notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

641—69.4(10A) Notification required in multifamily housing. A person who performs renovation, remodeling, or repainting of common areas for compensation, except for emergency renovation, remodeling, or repainting of target housing, and except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, shall do the following prior to commencing the work:

69.4(1) Provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the owner of the multifamily target housing where renovation, remodeling, or repainting will be performed. The pamphlet shall be provided no more than 60 days prior to commencing the work.

69.4(2) Obtain a signed, dated acknowledgment from the owner of the multifamily target housing where renovation, remodeling, or repainting will be performed affirming that the owner has received the pamphlet prior to the start of renovation, remodeling, or repainting and is aware of the potential health

hazards from remodeling, renovating, or repainting housing containing lead-based paint. The acknowledgment shall be obtained no more than 60 days prior to commencing the work, be completed prior to commencing the work, be clearly and legibly written, and include the following:

a. The owner's name and the address of the multifamily dwelling undergoing renovation, remodeling, or repainting.

b. The following language:

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting housing containing lead-based paint or lead-based paint hazards.

c. The signature of the owner, along with the date of signature.

69.4(3) Include the acknowledgment from subrule 69.4(2) as a separate sheet or as a part of any written contract or service agreement. If the parties use a written contract or agreement written in a language other than English, the acknowledgment text shall be written in the same language as the text of the contract or agreement.

69.4(4) Notify each occupant of the multifamily housing, in writing, of the intended remodeling, repainting, or renovation, and make a pamphlet as described in subrule 69.3(2) available upon request. At a minimum, this notification shall be accomplished by distributing written notice to each occupant of the target housing that describes:

a. The general nature and location of the planned renovation, remodeling, or repainting activity.

b. The expected starting and ending dates of the planned renovation, remodeling, or repainting activity.

c. A statement of how the owners and occupants can obtain a pamphlet as described in subrule 69.3(2) at no charge from the person conducting the renovation, remodeling, or repainting activity.

69.4(5) These activities may be conducted by the owner on behalf of the person planning to perform the renovation, remodeling, or repainting.

69.4(6) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation, remodeling, or repainting, and to provide a pamphlet as described in subrule 69.3(2) at no charge upon request. Regardless of who performs the notification activities in this rule, the person planning to conduct the renovation, remodeling, or repainting is responsible for ensuring compliance will be liable for any failure to comply with the notification requirements of this rule.

69.4(7) Subrules 69.3(4) and 69.3(5) are applicable as if set forth herein.

641—69.5(10A) Emergency renovation, remodeling, or repainting in target housing. A person who performs emergency renovation, remodeling, or repainting of target housing for compensation, except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, will do the following as soon as reasonably possible:

69.5(1) Provide a pamphlet as described in subrule 69.3(2) to the owner of the target housing where renovation, remodeling, or repainting is performed.

69.5(2) Notify each owner and occupant of the target housing, in writing, of the remodeling, repainting, or renovation, and make a pamphlet as described in subrule 69.3(2) available upon request. At a minimum, this notification shall be accomplished by distributing written notice to each owner and occupant of the target housing that describes:

a. The general nature and location of the renovation, remodeling, or repainting activity.

b. The starting and ending dates of the renovation, remodeling, or repainting activity.

c. A statement of how the owners and occupants can obtain a pamphlet as described in subrule 69.3(2) at no charge from the person conducting the renovation, remodeling, or repainting activity.

69.5(3) These activities may be conducted by the owner on behalf of the person performing the renovation, remodeling, or repainting. The person planning to perform the renovation, remodeling, or repainting must prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation, remodeling, or repainting and, upon request, provide a pamphlet as described in subrule 69.3(2) at no charge. Regardless of who performs the notification activities in this rule, the

person conducting the renovation, remodeling, or repainting is responsible for ensuring compliance with this rule and will be liable for any failure to comply with the notification requirements of this rule.

641—69.6(10A) Certification of attempted delivery in target housing. When an adult occupant is unavailable for signature or refuses to sign the acknowledgment of receipt of the pamphlet, the person conducting the renovation, remodeling, or repainting is permitted by subrule 69.3(2) to certify delivery for each instance. In addition to subrule 69.3(2):

69.6(1) If an adult occupant is unavailable for signature, the certification shall contain the printed name and dated signature of the person conducting the renovation, remodeling, or repainting, the address of the unit, and the attempted delivery dates and times under the following language:

I certify that I have made a good-faith effort to deliver the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the unit listed below at the dates and times indicated, and that an adult occupant was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

69.6(2) If the occupant refuses to sign the acknowledgment, the certification shall contain the printed name and dated signature of the person conducting the renovation, remodeling, or repainting, the address of the unit, the attempted delivery dates and times, and the location where the pamphlet was left at the unit (e.g., taped to the door, slipped under the door) under the following language:

I certify that I have made a good-faith effort to deliver the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit.

641—69.7(10A) Notification required in child-occupied facilities. A person who performs renovation, remodeling, or repainting of child-occupied facilities for compensation, except for emergency renovation, remodeling, or repainting of child-occupied facilities, and except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, will do the following prior to commencing the work:

69.7(1) Provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the owner of the building where renovation, remodeling, or repainting will be performed. The pamphlet will be provided no more than 60 days prior to commencing the work.

69.7(2) Obtain a signed, dated acknowledgment from the owner of the building where renovation, remodeling, or repainting will be performed affirming that the owner has received the pamphlet prior to the start of renovation, remodeling, or repainting and is aware of the potential health hazards from remodeling, renovating, or repainting buildings containing lead-based paint. The acknowledgment will be obtained no more than 60 days prior to commencing the work.

a. The acknowledgment will include the owner's name and the address of the child-occupied facility undergoing renovation, remodeling, or repainting.

b. The acknowledgment will include the following language:

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting buildings containing lead-based paint or lead-based paint hazards.

c. Below the statement, the acknowledgment will require the signature of the owner along with the date of signature.

d. If a signature cannot be obtained from the owner, the person will certify in writing that the pamphlet has been delivered to the building and that a written acknowledgment could not be obtained from an owner. Such certification will include the address of the building to be remodeled, renovated, or repainted, the date and method of delivery of the pamphlet, the name of the person delivering the

pamphlet, the reason for lack of acknowledgment (e.g., owner refuses to sign, owner not available), the signature of the person conducting the renovation, remodeling, or repainting, and the date of signature.

- e.* The type will be clear and legible.
- f.* The acknowledgment may be included as a separate sheet or as a part of any written contract or service agreement. The acknowledgment will be completed prior to commencing the work.
- g.* If the parties use a written contract or agreement that is written in a language other than English, the acknowledgment text will be written in the same language as the text of the contract or agreement.

69.7(3) In lieu of delivering the pamphlet and written acknowledgment, the person conducting the renovation, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgment to the owner at least seven days prior to beginning the work.

69.7(4) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting will provide further notification to the owners providing revised information on the ongoing or planned activities. This subsequent notification will be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

69.7(5) If the operator of the child-occupied facility is not the owner of the building, provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the operator of the child-occupied facility where renovation, remodeling, or repainting will be performed. The pamphlet will be provided no more than 60 days prior to commencing the work.

69.7(6) If the operator of the child-occupied facility is not the owner of the building, obtain a signed, dated acknowledgment from the operator of the child-occupied facility where renovation, remodeling, or repainting will be performed affirming that the operator has received the pamphlet prior to the start of renovation, remodeling, or repainting and is aware of the potential health hazards from remodeling, renovating, or repainting buildings containing lead-based paint. The acknowledgment will be obtained no more than 60 days prior to commencing the work.

a. The acknowledgment will include the name of the operator of the child-occupied facility and the address of the child-occupied facility undergoing renovation, remodeling, or repainting.

b. The acknowledgment will include the following language:

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, prior to the start of renovation, remodeling, or repainting and am aware of the potential health risk associated with remodeling, renovating, or repainting buildings containing lead-based paint or lead-based paint hazards.

c. Below the statement, the acknowledgment will require the signature of the operator of the child-occupied facility along with the date of signature.

d. If a signature cannot be obtained from the operator of the child-occupied facility, the person will certify in writing that the pamphlet has been delivered to the building and that a written acknowledgment could not be obtained from the operator of the child-occupied facility. Such certification will include the address of the building to be remodeled, renovated, or repainted, the date and method of delivery of the pamphlet, the name of the person delivering the pamphlet, the reason for lack of acknowledgment (e.g., operator of the child-occupied facility refuses to sign, operator of the child-occupied facility not available), the signature of the person conducting the renovation, remodeling, or repainting, and the date of signature.

- e.* The type will be clear and legible.
- f.* The acknowledgment may be included as a separate sheet or as a part of any written contract or service agreement. The acknowledgment will be completed prior to commencing the work.
- g.* If the parties use a written contract or agreement that is written in a language other than English, the acknowledgment text will be written in the same language as the text of the contract or agreement.

69.7(7) In lieu of delivering the pamphlet and written acknowledgment, the person conducting the renovation, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgment to the operator of the child-occupied facility at least 7 days prior to beginning the work.

69.7(8) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting will provide further notification to the operator of the child-occupied facility providing revised information on the ongoing or planned activities. This subsequent notification will be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

69.7(9) Provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, and information regarding the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date to the parents and guardians of children using the child-occupied facility where renovation, remodeling, or repainting will be performed. The pamphlet and information will be provided no more than 60 days prior to commencing the work. The person conducting the renovation, remodeling, or repainting will provide this information using one of the following methods:

- a.* Mail or hand-deliver the pamphlet and information to each parent or guardian of each child using the child-occupied facility (the pamphlet and information may not be sent home with the child); or
- b.* While the renovation, remodeling, or repainting is ongoing, post informational signs describing the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date. These signs will be posted in areas where they can be seen by the parents of the children frequenting the child-occupied facility. The signs will be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the person conducting the renovation, remodeling, or repainting at no cost to the parents or guardians.

69.7(10) The activities in subrule 69.7(9) will be conducted by the person planning to perform the renovation, remodeling, or repainting or by the owner or operator of the child-occupied facility on behalf of this person. Regardless of who performs the notification activities required in subrule 69.7(9), the person conducting the renovation, remodeling, or repainting will be responsible for ensuring compliance with this rule and will be liable for any failures to comply with the notification requirements in this rule.

69.7(11) The person conducting the renovation, remodeling, or repainting will prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation, remodeling, or repainting and to provide the pamphlet to them.

69.7(12) If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, or repainting change after the initial notification has been conducted, the person conducting the renovation, remodeling, or repainting will provide revised information on the ongoing or planned activities to the parents and guardians of children frequenting the child-occupied facility providing revised information on the ongoing or planned activities. This subsequent notification will be provided before the person conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.

641—69.8(10A) Emergency renovation, remodeling, or repainting in child-occupied facilities. A person who performs emergency renovation, remodeling, or repainting of child-occupied facilities for compensation, except for minor repair and maintenance activities that disrupt less than 1.0 square feet of painted surface, will do the following as soon as reasonably possible:

69.8(1) Provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the owner of the building where renovation, remodeling, or repainting is performed.

69.8(2) Notify each owner and, if different, the operator of the child-occupied facility, in writing, of the remodeling, repainting, or renovation, and make the pamphlet, Lead Poisoning: How to Protect Iowa Families, or the federal pamphlet, Renovate Right, available upon request. At a minimum, this notification will be accomplished by distributing written notice to each owner and, if different, operator of the child-occupied facility. The notice will describe:

- a.* The general nature and location of the renovation, remodeling, or repainting activity.
- b.* The starting and ending dates of the renovation, remodeling, or repainting activity.

c. A statement of how each owner and, if different, the operator of the child-occupied facility can obtain the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, at no charge from the person conducting the renovation, remodeling, or repainting activity.

69.8(3) Provide the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, and information regarding the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date to the parents and guardians of children using the child-occupied facility where renovation, remodeling, or repainting will be performed. The person conducting the renovation, remodeling, or repainting will provide this information using one of the following methods:

a. Mail or hand-deliver the pamphlet and information to each parent or guardian of each child using the child-occupied facility (the pamphlet and information may not be sent home with the child); or

b. While the renovation, remodeling, or repainting is ongoing, post informational signs describing the general nature and locations of the renovation, remodeling, or repainting and the anticipated completion date. These signs will be posted in areas where they can be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs will be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the person conducting the renovation, remodeling, or repainting at no cost to the parents or guardians.

69.8(4) The activities in subrule 69.8(3) will be conducted by the person planning to perform the renovation, remodeling, or repainting or by the owner or operator of the child-occupied facility on behalf of this person. Regardless of who performs the notification activities required in subrule 69.8(3), the person conducting the renovation, remodeling, or repainting will be responsible for ensuring compliance with this rule and will be liable for any failures to comply with the notification requirements in this rule.

641—69.9(10A) Certification of attempted delivery for child-occupied facilities. When the owner and, if different, operator of a child-occupied facility are unavailable for signature or refuse to sign the acknowledgment of receipt of the pamphlet, the person conducting the renovation, remodeling, or repainting is permitted by subrule 69.3(2) to certify delivery for each instance. The certification will include the address of the child-occupied facility undergoing renovation, remodeling, or repainting, the date and method of delivery of the pamphlet, name of the person delivering the pamphlet, reason for lack of acknowledgment (e.g., owner and, if different, operator refuse to sign), the signature of the individual conducting the renovation, remodeling, or repainting, and the date of signature.

69.9(1) *Unavailable for signature.*

a. If the owner and, if different, operator of the child-occupied facility are unavailable for signature, the certification will contain the following language:

I certify that I have made a good-faith effort to deliver the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the child-occupied facility listed below at the dates and times indicated, and that the owner and, if different, operator of the child-occupied facility was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the child-occupied facility with the owner and, if different, operator.

b. Below the statement, the certification will require the printed name and signature of the person conducting the renovation, remodeling, or repainting, the address of the child-occupied facility, the attempted delivery dates and times, and the date of signature.

69.9(2) *Refused to sign.*

a. If the owner and, if different, operator refuse to sign the acknowledgment, the certification will contain the following language:

I certify that I have made a good-faith effort to deliver the pamphlet entitled Lead Poisoning: How to Protect Iowa Families or the federal pamphlet, Renovate Right, to the child-occupied facility listed below at the dates and times indicated, and that the owner

and, if different, operator refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the child-occupied facility.

b. Below the statement, the certification will require the printed name and signature of the person conducting the renovation, remodeling, or repainting, the address of the child-occupied facility, the attempted delivery dates and times, the location where the pamphlet was left at the child-occupied facility (e.g., taped to the door, slipped under the door), and the date of signature.

641—69.10(10A) Subcontracts. In cases where renovation, remodeling, or repainting activities involve subcontracts, it is the responsibility of the person receiving the compensation from the property owner, or other party on behalf of the property owner, to provide the notification(s) described in rules 641—69.3(10A), 641—69.4(10A), 641—69.5(10A), and 641—69.6(10A).

641—69.11(10A) Exemption. Renovation, remodeling, or repainting in target housing or a child-occupied facility in which a lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor certified pursuant to 641—Chapter 70 has made a written determination that the components affected by the renovation are free of lead-based paint and where the person conducting the renovation, remodeling, or repainting has obtained a copy of the written determination is exempt from the provisions of this chapter.

641—69.12(10A) Recordkeeping requirements. A person who conducts renovation, remodeling, or repainting for compensation in target housing or a child-occupied facility shall retain records necessary to demonstrate compliance with this chapter for a minimum of three years following completion of the renovation, remodeling, or repainting, including:

69.12(1) The address or location of the target housing or child-occupied facility where remodeling, renovation, or repainting was conducted.

69.12(2) A list of all known occupants of the dwelling units where renovation, remodeling, or repainting was conducted at the commencement of the work.

69.12(3) Copies of signed, dated acknowledgments, notifications, and notification materials required by subrules 69.3(2) and 69.4(2) and rule 641—69.7(10A).

69.12(4) Reports showing that a lead inspector/risk assessor or elevated blood level (EBL) inspector/risk assessor certified pursuant to 641—Chapter 70 has made a written determination that the components affected by the renovation are free of lead-based paint.

69.12(5) Certifications of attempted delivery as described in rule 641—69.6(10A).

69.12(6) Certificates of mailing as described in subrules 69.3(3) and 69.4(3).

641—69.13(10A) Compliance inspections. The department may enter the place of business of a person who conducts renovation, remodeling, or repainting for the purpose of enforcing the notification required by this chapter.

641—69.14(10A) Enforcement.

69.14(1) The department may impose a civil penalty pursuant to Iowa Code section 10A.903(3) when it finds that a person has committed any of the following acts:

- a. Failed or refused to comply with any requirements of this chapter.
- b. Failed or refused to establish, maintain, provide, copy, or permit access to records or reports as required by this chapter.
- c. Failed or refused to permit entry or inspection as described in subrule 69.14(1).
- d. Falsified reports and records required by this chapter.
- e. Failed to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- f. Failed to respond within 20 days of receipt of communication sent by the department by registered or certified mail.
- g. Engaged in any conduct that subverts or attempts to subvert a department investigation.

h. Failed to comply with a subpoena issued by the department or failed to cooperate with a department investigation.

i. Failed to pay costs assessed in any disciplinary action.

69.14(2) Complaints may be submitted to the department using contact information as set forth in 481—Chapter 1. The complainant should provide the name of the person who performs renovation, remodeling, or repainting for compensation in target housing or a child-occupied facility and specific details of the person’s noncompliance.

69.14(3) Civil penalties.

a. Before instituting any proceeding to impose a civil penalty under Iowa Code section 10A.903, the department will serve a written notice of violation upon the person charged. The notice of violation will specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged and will identify specifically the particular provision or provisions of the law, rule, regulation, or cease and desist order involved in the alleged violation and will state the amount of each proposed penalty. The notice of violation will also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation or showing extenuating circumstances. The notice of violation will advise the person charged that upon failure to pay a civil penalty subsequently determined by the department, if any, unless compromised, remitted, or mitigated, the fee may be collected by civil action.

b. Within 20 days of the date of a notice of violation or other time specified in the notice, the person charged may either pay the penalty in the amount proposed, answer the notice of violation, or request a contested case hearing. The answer to the notice of violation shall state any facts, explanations, and arguments denying the charges of violation or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty. If the person charged with a violation fails to answer within the time specified in paragraph 69.14(3) “*b*,” an order may be issued imposing the civil penalty in the amount set forth in the notice of violation described in paragraph 69.14(3) “*a*.” If the person charged with a violation files an answer to the notice of violation, the department, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within 20 days of the date of the order or other time specified in the order, request a contested case hearing. If the person charged with a violation timely requests a contested case hearing, it will be initiated and held in accordance with 481—Chapters 9 and 10.

641—69.15(10A) Waivers. Rules in this chapter are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

These rules are intended to implement Iowa Code section 10A.903.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8908C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to lead-based paint activities

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 70, “Lead-Based Paint Activities,” 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 10A.902.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 10A.902 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 70. This rulemaking implements Iowa Code section 10A.902 in accordance with the goals and directives of Executive Order 10. Iowa Code section 10A.902 requires that the Department adopt rules regarding minimum requirements for lead inspector, lead abater, and lead-safe renovator training programs, certification, work practice standards and suspension and revocation requirements, and implement the training and certification programs. The Department shall seek federal funding and establish fees in amounts sufficient to defray the costs of the programs.

This rulemaking implements the aforementioned Iowa Code section by specifying terms and requirements related to lead professionals and firms and lead training programs in accordance with state and federal law. The rules establish responsibilities for individuals working in the different lead disciplines. The rules identify specific training required of those individuals and provide a secure electronic system to keep certifications up to date. The rules provide clear guidelines for lead professionals regarding training and certification to perform lead-based paint activities.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8672C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

No one attended the public hearings. No public comments were received. Nonsubstantive changes from the Notice have been made for clarity and consistency with the Department's rules.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 70 and adopt the following **new** chapter in lieu thereof:

CHAPTER 70
LEAD-BASED PAINT ACTIVITIES

641—70.1(10A) Applicability. This chapter applies to all persons who are lead professionals in Iowa, all firms that perform lead professional activities in Iowa, and training providers that offer training for lead professionals. This chapter addresses certification of lead professionals and establishes specific requirements for how lead-based paint activities will be performed if a property owner, manager, or occupant chooses to undertake them. Nothing in this chapter mandates a property owner, manager, or occupant to undertake any particular lead-based paint activity. This chapter also provides for the approval of courses that provide training for lead professionals.

641—70.2(10A) Definitions.

“Adequate quality control” means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

“Approved course” means a course that has been approved by the department for the training of lead professionals.

“Approved lead-safe work practices training program” means a lead-safe work practices training program that has been approved by the department.

“Arithmetic mean” means the algebraic sum of data values divided by the number of data values.

“Certified elevated blood lead (EBL) inspector/risk assessor” means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

“Certified firm” means a firm that employs certified lead professionals and has met the requirements of 641—70.7(10A) for certification and has been certified by the department.

“Certified lead abatement contractor” means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

“Certified lead abatement worker” means a person who has met the requirements of 641—70.5(10A) and who has been certified by the department.

“Certified lead inspector/risk assessor” means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

“Certified lead professional” means a person who has been certified by the department as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, lead abatement worker, project designer, sampling technician, or lead-safe renovator.

“Certified lead-safe renovator” means a person who has met the requirements of 641—70.5(10A) for certification and who has been certified by the department.

“Certified project designer” means a person who has met the requirements of 641—70.5(10A) for certification or interim certification and who has been certified by the department.

“Certified sampling technician” means a person who has met the requirements of 641—70.5(10A) and who has been certified by the department.

“Chewable surface” means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Surfaces can be considered chewable even if there is no evidence of teeth marks.

“Child-occupied facility” means the same as defined in Iowa Code section 10A.903. “Child-occupied facility” also includes any building where lead-based paint activities are conducted immediately prior to or during the conversion of the building to a child-occupied facility.

“Cleaning verification card” means a card developed and distributed, or otherwise approved, by the U.S. Environmental Protection Agency (EPA) for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether postrenovation cleaning has been properly completed.

“Clearance level” means the value at which the amount of lead in dust on a surface following completion of interim controls, lead abatement, paint stabilization, standard treatments, ongoing lead-based paint maintenance, rehabilitation, or renovation is a dust-lead hazard and fails clearance testing. The clearance level for a single-surface dust sample from a floor is greater than or equal to 10 micrograms per square foot. The clearance level for a single-surface dust sample from an interior windowsill is greater than or equal to 100 micrograms per square foot. The clearance level for a single-surface dust sample from a window trough is greater than or equal to 400 micrograms per square foot.

“Clearance testing” means an activity conducted following interim controls, lead abatement, paint stabilization, standard treatments, ongoing lead-based paint maintenance, rehabilitation, or renovation to determine that the hazard reduction activities are complete. Clearance testing includes a visual assessment, the collection and analysis of environmental samples, the interpretation of sampling results, and the preparation of a report.

“Common area” means a portion of the building that is generally accessible to all occupants. This includes, but is not limited to, hallways, stairways, laundry and recreational rooms, porches, exteriors, playgrounds, community centers, garages, and boundary fences.

“Common area group” means a group of common areas that are similar in design, construction, and function. Common area groups include but are not limited to hallways, stairwells, and laundry rooms.

“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.

“Component” or *“building component”* means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include but are not limited to interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, countertops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, latticework, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills or stools and troughs, casings, sashes and wells, and air conditioners. Each side of a door is considered a component within its respective room.

“Component type” means a group of like components constructed of the same substrate in the same multifamily housing.

“Composite sample” means the collection of more than one sample of the same medium (e.g., dust, soil, or paint) from the same type of surface (e.g., floor, interior windowsill, or window trough) such that multiple samples can be analyzed as a single sample.

“Concentration” means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per grams or parts per million of weight) in a sample of soil or dust.

“Containment” means a system of temporary barriers to protect workers, residents, and the environment by controlling exposures to the dust-lead hazards and debris created during renovation or lead abatement.

“*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.

“*Course agenda*” means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

“*Course test*” means an evaluation of the overall effectiveness of the training, which shall test the trainees’ knowledge and retention of the topics covered during the course.

“*Course test blueprint*” means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

“*Department*” means the Iowa department of inspections, appeals, and licensing.

“*Deteriorated paint*” means any interior or exterior paint or other coating that is cracking, flaking, chipping, peeling, or chalking, or any paint or coating located on an interior or exterior surface that is otherwise damaged or separated from the substrate of a building component.

“*Discipline*” means one of the specific types or categories of lead-based paint activities identified in this chapter for which individuals may receive training from approved courses and become certified by the department.

“*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 certified profession, or (2) the circumstances under which an offense was committed are circumstances customary to a certified profession.

“*Distinct painting history*” means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

“*Documented methodologies*” means methods or protocols used to sample for the presence of lead in paint, dust, and soil.

“*Dripline*” means the area within three feet surrounding the perimeter of a building.

“*Dry disposable cleaning cloth*” means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or countertops.

“*Dry sanding*” means sanding a surface that is partially coated with paint or other surface coating without moisture and includes hand and mechanical methods of sanding.

“*Dry scraping*” means scraping a surface that is partially coated with paint or other surface coating without moisture and includes hand and mechanical methods of scraping.

“*Dust-lead hazard*” means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead greater than or equal to 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is greater than or equal to 10 micrograms per square foot on floors, 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property.

“*Elevated blood lead (EBL) child*” means any child who has had one venous blood lead level greater than or equal to 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.

“*Elevated blood lead (EBL) inspection*” means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written

report explaining the results of the investigation to the property owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child. A certified elevated blood lead (EBL) inspector/risk assessor shall not determine that a residential dwelling is free of lead-based paint as a result of an elevated blood lead (EBL) inspection.

“Emergency renovation” means renovation, remodeling, or repainting activities necessitated by nonroutine failures of equipment or of a structure that were not planned but resulted from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or threatens equipment or property with significant damage. “Emergency renovation” includes interim controls, renovation, remodeling, or repainting activities that are conducted in response to an elevated blood lead (EBL) inspection.

“Encapsulant” means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded coating material.

“Encapsulation” means the application of an encapsulant.

“Enclosure” means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

“Firm” means a company, partnership, corporation, sole proprietorship, individual doing business, association, or other business entity; a federal, state, tribal, or local government agency; or a nonprofit organization that performs or offers to perform lead-based paint activities.

“Friction surface” means an interior or exterior surface that is subject to abrasion or friction including but not limited to certain window, floor, and stair surfaces.

“Guest instructor” means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on work activities, or work practice components of a course.

“Hands-on skills assessment” means an evaluation that tests the trainees’ ability to satisfactorily perform the work practices and procedures identified in 641—70.6(10A), as well as any other skill taught in a training course.

“Hazardous lead-based paint” means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is greater than or equal to the dust-lead hazard level, lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

“Hazardous waste” means any waste as defined in 40 CFR 261.3.

“HEPA exhaust control” means a HEPA vacuum attached to the machine in such a manner that it captures the air, dust, and debris disturbed by the machine.

“HEPA vacuum” means a vacuum cleaner that has been designed, operated, and maintained with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97 percent efficiency. The vacuum cleaner must be designed, operated, and maintained so that all of the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it. HEPA vacuums must be operated and maintained in accordance with the manufacturer’s instructions.

“Housing for the elderly” means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older or an age recognized as elderly by a specific federal housing assistance program.

“Immediate family” means spouse, parents and grandparents, children and grandchildren, brothers and sisters, mother-in-law and father-in-law, brothers-in-law and sisters-in-law, daughters-in-law and sons-in-law, and adopted and step family members.

“Impact surface” means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

“Inconclusive classification” means any XRF reading falling within the inconclusive range on the performance characteristic sheet, including the boundary values defining the range.

“Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including repairing deteriorated lead-based paint, specialized cleaning, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

“Interior windowsill” means the portion of the horizontal window ledge that protrudes into the interior of the room.

“Lead abatement” means any measure or set of measures designed to permanently eliminate lead-based paint hazards in a residential dwelling or child-occupied facility. Lead abatement includes, but is not limited to, (1) the removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of soil-lead hazards and (2) all preparation, cleanup, disposal, repainting or refinishing, and postabatement clearance testing activities associated with such measures. “Lead abatement” specifically includes projects for which there is a written contract or other documentation, which provides that an individual will be conducting lead abatement in or around a residential dwelling or child-occupied facility.

“Lead abatement” also includes but is not limited to (1) projects for which there is a written contract or other document, which provides that an individual will be conducting activities in or to a residential dwelling or child-occupied facility that shall result in or are designed to permanently eliminate lead-based paint hazards, (2) projects resulting in the permanent elimination of lead-based paint hazards that are conducted by firms or individuals certified under 641—70.5(10A), (3) projects resulting in the permanent elimination of lead-based paint hazards that are conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead abatement, and (4) projects resulting in the permanent elimination of lead-based paint that are conducted in response to a lead abatement order. However, in the case of items (1) through (4) of this definition, “lead abatement” does not include renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, “lead abatement” does not include interim controls, operations and maintenance activities, renovation, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

“Lead-based paint” means paint or other surface coatings that contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

“Lead-based paint activities” means, in the case of target housing and child-occupied facilities, lead-free inspection, lead inspection, elevated blood lead (EBL) inspection, lead hazard screen, risk assessment, lead abatement, visual risk assessment, clearance testing conducted after lead abatement, clearance testing conducted after renovation, clearance testing conducted after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35, and renovation.

“Lead-based paint hazard” means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

“Lead-based paint hazard reduction activity” means an activity that permanently or temporarily reduces or eliminates lead-based paint hazards. “Lead-based paint hazard reduction activity” includes lead abatement, renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35.

“Lead-free inspection” means an inspection to determine whether a single dwelling unit or multifamily housing is free of lead-based paint and qualifies for the exemption in 24 CFR Part 35 and 40 CFR Part 745 for target housing being leased that is free of lead-based paint and the provision of a written report explaining the results of the lead-free inspection and options for reducing lead-based paint hazards to the property owner and to the person requesting the lead inspection.

“Lead hazard screen” means a limited risk assessment activity that involves limited paint and dust sampling and the provision of a written report explaining the results of the lead hazard screen to the property owner and to the person requesting the lead hazard screen.

“Lead inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and a determination of the existence, nature, severity, and location of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards to the property owner and to the person requesting the lead inspection. A certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor shall not determine that a residential dwelling is free of lead-based paint as a result of a lead inspection.

“Lead professional” means a person who conducts lead abatement, renovation, lead inspections, elevated blood lead (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after lead abatement, clearance testing after renovation, paint testing, or clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35.

“Lead-safe renovator training program” means an eight-hour training program that provides training on how to work safely with lead-based paint.

“Lead-safe work practices” means methods that are used to minimize hazards when conducting renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35.

“Living area” means any area of a residential dwelling used by at least one child under the age of six years, including but not limited to living rooms, kitchen areas, dens, playrooms, and children’s bedrooms.

“Loading” means the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

“Mid-yard” means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

“Minor repair and maintenance activities” means activities, including minor heating, ventilation or air-conditioning work, electrical work, and plumbing, that disrupt less than the minimum areas of a painted surface established in this definition where none of the work practices prohibited or restricted by this chapter are used and where the work does not involve window replacement or demolition of painted surface areas. When painted components or portions of painted components are removed, the entire surface area removed is the amount of painted surface disturbed. Projects, other than emergency renovation, performed in the same room within the same 30 days will be considered the same project for the purpose of determining whether the project is a minor repair and maintenance activity. Renovations performed in response to an elevated blood lead (EBL) inspection are not considered minor repair and maintenance activities. The minimum area for minor repair and maintenance activities is:

1. Less than 1.0 square foot of an interior painted or finished wood surface per renovation;
2. Less than 6.0 square feet of a painted or finished drywall or plaster surface per room; or
3. Less than 20.0 square feet of an exterior painted or finished surface per renovation.

Projects performed pursuant to 24 CFR Part 35 shall comply with the de minimis levels in 24 CFR 35.1350 if these de minimis levels are more restrictive than the minimum areas of a painted surface established in this definition.

“Multifamily dwelling” means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

“Multifamily housing” means one or more multifamily dwellings that are under the same ownership or management.

“Negative classification” means any value defined by the performance characteristics sheet as indicating that lead-based paint is not present.

“NIST 1.02 standard film” means the National Institute of Standards and Technology 1.02 milligrams of lead per square centimeter standard reference material. If the specific 1.02 milligrams of lead per square centimeter standard is not available from NIST, then the lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor shall use the closest available standard from NIST (1.0X).

“Occupant protection plan” means a plan developed by a certified lead abatement contractor prior to the commencement of lead abatement in a residential dwelling or child-occupied facility that describes the measures and management procedures that will be taken during lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

“Ongoing lead-based paint maintenance” means the maintenance of housing pursuant to 24 CFR Part 35.

“Painted component” means a component or building component that is at least partially covered with paint or other surface coating.

“Paint-lead hazard” means the presence of hazardous lead-based paint in a residential dwelling or a child-occupied facility.

“Paint sample” means a sample collected in a representative location using ASTM E1729, “Standard Practice for Field Collection of Dried Paint Samples for Lead Determination by Atomic Spectrometry Techniques,” as effective on March 26, 2025, or equivalent method.

“Paint stabilization” means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint pursuant to 24 CFR Part 35.

“Paint testing” means the process of determining the presence or the absence of lead-based paint on a specific component or surface. Paint testing shall only be conducted by certified lead inspector/risk assessors or certified elevated blood lead (EBL) inspector/risk assessors using approved methods for testing. Approved methods for paint testing are XRF analysis and laboratory analysis.

“Performance characteristics sheet (PCS)” means an information sheet developed by the U.S. Environmental Protection Agency and U.S. Department of Housing and Urban Development that defines acceptable operating specifications and procedures for a specific model of X-ray fluorescence analyzer (XRF). The PCS contains information about XRF readings taken on specific substrates, calibration check tolerances, interpretation of XRF readings, and other aspects of the model’s performance.

“Permanently covered soil” means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

“Play area” means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, factors including the following: the presence of play equipment (sandboxes, swing sets, and sliding boards), toys, or other children’s possessions, observations of play patterns, or information provided by parents, residents, caregivers, or property owners.

“Positive classification” means any value defined by the performance characteristics sheet as indicating the presence of lead-based paint.

“Postrenovation cleaning verification” means the use of a wet or dry disposable cleaning cloth to wipe the interior windowsill, window trough, uncarpeted floor, and countertops of the renovation work area and the comparison of the cloth to a cleaning verification card to determine if the work area has been adequately cleaned.

“Principal instructor” means the individual who has the primary responsibility for organizing and teaching a particular course.

“Public housing agency” or *“PHA”* means a state, county, municipality, or other governmental entity or public body that is authorized to engage in or assist in the development or operation of low-income housing. A PHA must be approved by the U.S. Department of Housing and Urban Development (HUD).

“Random selection” means a method of choosing residential dwellings from multifamily housing consisting of similarly constructed and maintained residential dwellings such that each residential dwelling has an equal chance of being selected.

“Recognized laboratory” means an environmental laboratory recognized by the U.S. Environmental Protection Agency pursuant to Section 405(b) of the federal Toxic Substance Control Act as capable of performing an analysis for lead compounds in paint, soil, and dust.

“Recognized test kit” means a commercially available kit recognized by the EPA under 40 CFR 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent by weight, in a paint chip, paint, powder, or painted surface.

“Reduction” means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and lead abatement.

“Reevaluation” means a visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following a lead-based paint hazard reduction activity where lead-based paint is still present and the provision of a written report explaining the results of the reevaluation.

“Refresher training course” means a course taken by a certified lead professional to maintain certification in a particular discipline.

“Regulated entity” means any lead professional or firm that is regulated by the department by virtue of these rules, the Iowa Code, certification documents, approval documents, lead abatement notices, or other official regulatory promulgation.

“Rehabilitation” means the improvement of an existing structure through alterations, incidental additions, or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.

“Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of lead abatement as defined by this chapter. The term “renovation” includes, but is not limited to, the removal, modification, or repair of painted surfaces or painted components such as modification of painted doors, surface restoration, and window repair; surface preparation activity such as sanding, scraping, or other such activities that may generate paint dust; the partial or complete removal of building components such as walls, ceilings, and windows; weatherization projects such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics and planning thresholds to install weatherstripping; and interim controls that disturb painted surfaces. “Renovation” does not include minor repair and maintenance activities.

“Residential building” means a building containing one or more residential dwellings.

“Residential dwelling” means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including but not limited to garages, farm buildings, and fences, or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, that is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.

“Risk assessment” means an investigation to determine the existence, nature, severity, and location of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards to the property owner and to the person requesting the risk assessment.

“Room” means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in

walls. A screened-in porch that is used as a living area is a room. Each exterior side of the house is considered a separate room.

“Soil-lead hazard” means bare soil on residential real property or on the property of a child-occupied facility that contains total lead greater than or equal to 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is greater than or equal to 400 parts per million.

“Soil sample” means a sample collected in a representative location using ASTM E1727, “Standard Practice for Field Collection of Soil Samples by Atomic Spectrometry Techniques,” as effective on March 26, 2025, or equivalent method.

“Standard treatments” means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a residential dwelling without the benefit of a risk assessment or other evaluation pursuant to 24 CFR Part 35. Standard treatments consist of the stabilization of all deteriorated interior and exterior paint, the provision of smooth and cleanable horizontal hard surfaces, the correction of dust-generating conditions (i.e., conditions causing rubbing, binding, or crushing of surfaces known to or presumed to be coated with lead-based paint), and the treatment of bare soil to control known or presumed soil-lead hazards.

“State certification examination” means a discipline-specific examination approved by the department to test the knowledge of a person who has completed an approved training course and is applying for certification in a particular discipline. The state certification examination may not be administered by the provider of an approved course.

“Substrate” means the material underneath the paint or finish on a surface. Substrates are classified as brick, concrete, drywall, metal, plaster, or wood.

“Substrate correction” means adjustments that must be made to readings obtained from some X-ray fluorescence analyzers to correct for systematic biases due to interference from the substrate beneath the paint.

“Substrate correction value” means the value that is used to adjust readings obtained from some X-ray fluorescence analyzers to correct for systematic biases due to interference from the substrate beneath the paint.

“Targeted selection” means selecting residential dwellings from multifamily housing for risk assessments or lead hazard screens using information supplied by the property owner.

“Target housing” means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities and housing that does not contain a bedroom, unless at least one child under the age of six years resides or is expected to reside in the housing for the elderly or persons with disabilities or housing that does not contain a bedroom. Target housing also includes any nonresidential building where lead-based paint activities are conducted prior to or during the conversion of the nonresidential building to target housing.

“Testing combination” means the unique combination of the room, component, substrate, and distinct painting history.

“Training hour” means at least 50 minutes of actual learning, including but not limited to time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience.

“Training manager” means the individual responsible for administering an approved course and monitoring the performance of principal instructors and guest instructors.

“Training program” means a person or organization sponsoring a lead professional training course(s).

“Visual inspection for clearance testing” means the visual examination of a residential dwelling or a child-occupied facility following lead abatement or following interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR 35.1340 to determine whether or not the lead abatement, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation has been successfully completed.

“Visual risk assessment” means a visual assessment to determine the presence of deteriorated paint or other potential sources of lead-based paint hazards in a residential dwelling or child-occupied facility

and the provision of a written report explaining the results of the assessment to the property owner and to the person requesting the visual risk assessment. For the purpose of compliance with this chapter, housing quality standards inspections conducted in housing owned by a public housing authority and housing that is receiving tenant-based rental assistance from a public housing authority are not considered visual risk assessments.

“Weighted arithmetic mean” means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface dust sample is comprised of a single dust subsample. A composite dust sample may contain from two to four dust subsamples of the same area as each other and of each single surface dust sample in the composite. The weighted arithmetic mean is obtained by summing, for all dust samples, the product of the dust sample’s result multiplied by the number of dust subsamples in the dust sample, and dividing the sum by the total number of dust subsamples contained in all dust samples.

“Wet disposable cleaning cloth” means a commercially available, premoistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or countertops.

“Wet mopping system” means a device with the following characteristics: a long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficiency.

“Wet sanding” means a process of removing loose paint in which a surface that is partially coated with paint or other surface coating is kept wet or moist during sanding to minimize the dispersal of paint chips and airborne dust.

“Wet scraping” means a process of removing loose paint in which a surface that is partially coated with paint or other surface coating is kept wet or moist during scraping to minimize the dispersal of paint chips and airborne dust.

“Windowsill” means the portion of the horizontal window ledge that protrudes into the interior of the room when the window is closed.

“Window trough” means, for a typical double-hung window, the portion of the exterior windowsill between the interior windowsill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window well.

“Wipe sample” means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, “Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques,” as effective on March 26, 2025, or equivalent method, with an acceptable wipe material as defined in ASTM E1792, “Standard Specification for Wipe Sampling Materials for Lead in Surface Dust,” as effective on March 26, 2025. The minimum area for a floor wipe sample shall be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample shall be 0.25 square feet or 36 square inches.

“Worksite” or *“work area”* means an interior or exterior area where lead-based paint hazard reduction activity or renovation takes place. There may be more than one worksite in a dwelling unit or at a residential property.

“Worst case selection” means conducting a walk-through survey of all residential dwellings in the multifamily housing to select the highest-risk residential dwellings for risk assessments or lead hazard screens.

“X-ray fluorescence analyzer” or *“XRF analyzer”* means an instrument that determines lead concentrations in milligrams per square centimeter (mg/cm²) using the principle of X-ray fluorescence.

“XRF reading” means the number obtained when a surface is tested with an X-ray fluorescence analyzer.

641—70.3(10A) Lead professional certification.

70.3(1) A person or a firm that conducts lead abatement, renovation, clearance testing after lead abatement, lead-free inspections, lead inspections, elevated blood lead (EBL) inspections, lead hazard

screens, risk assessments, visual risk assessments, clearance testing after renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 has to be certified by the department in the appropriate discipline. However, persons who perform these activities within residential dwellings that they, or an immediate family member, own and currently reside in, are not required to be certified.

70.3(2) Persons who perform renovation under the supervision of a certified lead-safe renovator, certified lead abatement contractor, or certified lead abatement worker and who have completed on-the-job training are not required to be certified. However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR Part 35.

70.3(3) Elevated blood lead (EBL) inspections are conducted only by certified elevated blood lead (EBL) inspector/risk assessors employed by or under contract with the department, a local board of health, or a public housing agency.

641—70.4(10A) Course approval and standards. All lead professional training courses for initial certification and refresher training must be approved by the department. Training programs shall not state that they have been approved by the state of Iowa unless they have met the requirements of 641—70.4(10A) and been approved by the department.

70.4(1) Training courses shall meet the following requirements:

a. The training program offering the course will employ a training manager who has the following qualifications:

(1) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, or a related field; or two years of experience in managing a training program specializing in environmental hazards.

(2) Demonstrated experience, education, or training in lead professional activities, including lead inspection, lead abatement, lead-safe work practices, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

b. The training manager will designate a qualified principal instructor for each course who has the following qualifications:

(1) Demonstrated experience, education, or training in teaching workers or adults.

(2) Certification as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, or lead abatement contractor. In the case of a course for training lead-safe renovators, the principal instructor may be certified as a sampling technician.

(3) Demonstrated experience, education, or training in lead professional activities, including lead inspection, lead abatement, lead-safe work practices, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

c. The principal instructor will be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

d. The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment as needed.

e. The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in 70.4(3) through 70.4(17).

f. The training manager shall maintain the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

g. The course test shall be developed in accordance with the test blueprint submitted with the course approval application.

h. The training program will issue unique course completion certificates to each student who passes the course. The course completion certificate shall be issued in color. The course completion certificate will include:

- (1) The first name, last name and middle initial of the student.
- (2) The address of the student.
- (3) A photograph of the student, and a unique identification number.
- (4) The name of the particular course that the student completed and the course length in hours.
- (5) Dates of course completion and test passage.
- (6) The name, address, and telephone number of the training program.
- (7) The signature of the training manager.
- i.* The training manager will develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:
 - (1) Procedures for periodic revision of training materials and the course test to reflect changes in regulations and recommended practices.
 - (2) Procedures for the training manager to conduct an annual review of the competency of the principal instructor and all other instructors.
- j.* The training program will offer courses that teach the work practice standards for conducting lead-based paint activities contained in 641—70.6(10A) and other standards developed by the department. These standards will be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.
- k.* The training manager will ensure that each course meets the requirements in this rule for the number of training hours and hours of hands-on training. The training manager will ensure that any student who misses more than 20 minutes of class time makes up the time before taking the course test.
- l.* The training manager will ensure that the training program complies at all times with all requirements in this rule.
- m.* The content of the lead training courses will be in accordance with the subjects described specifically in each lead discipline contained in 641—70.4(10A).
- n.* The hands-on activities, denoted by an asterisk (*), shall include subjects that are also denoted with an asterisk (*) and listed in the related lead discipline contained in 641—70.4(10A).
- o.* Each lead training course will conclude with a course test and, if applicable, a hands-on skills assessment. The student must achieve a score of at least 80 percent on the examination and successfully complete the hands-on skills assessment to successfully complete the course. The student may take the course test no more than three times within six months of completing the course. If an individual does not pass the course test within six months of completing the course, the individual must retake the appropriate approved course.
- p.* The instructor will provide an introduction of the online certification system used by the department. The instructor will advise each student on the procedures needed to apply to the department for certification and provide information to each student on the procedures needed for taking the state certification examination. The instructor will also provide each student with a current copy of this chapter and 641—Chapter 69.
- q.* All of the course materials must be provided to each student. The materials may be provided electronically unless an individual student requests that the materials be provided on paper.
- r.* The training manager shall allow the department to audit the training program to verify the contents of the application for approval and for reapproval.
- s.* The training program shall maintain, and make available to the department, upon request, the following records:
 - (1) All documents specified in 70.4(2)“f.”
 - (2) Current curriculum/course materials and documents reflecting any changes made to these materials.
 - (3) The course test blueprint and the course test.
 - (4) Information regarding how the hands-on assessment is conducted including but not limited to who conducts the assessment, how the skills are graded, what facilities are used, and the pass/fail rate.
 - (5) The quality control plan as described in 70.4(1)“i.”

(6) A file for each student who has completed a course. Each student file shall contain the following:

1. The student's name, address, and telephone number.
2. The student's test and answer sheet.
3. A copy of the student's course completion certificate.
4. A copy of the student's hands-on skill assessment, if applicable.
5. A photograph of the student as taken by the training program.

(7) A file for each individual course that has been offered. Each file shall include the following:

1. The dates of the course.
2. The location of the course.
3. The instructors who taught the course.
4. A paper or electronic copy of the curriculum used for the course.
5. A copy of the test used for the course.

6. Documentation of the times that each student was present at the course, including documentation of how a student made up missed time.

7. The course evaluations.

(8) Any other materials that have been submitted to the department as part of the program's application for approval.

t. The training program shall retain all required records at the address specified on the training program approval application for a minimum of six years.

u. The training program shall notify the department within 30 days of changing the address specified on its training program approval application or transferring the records from that address.

v. A training program shall notify the department at least seven days in advance of offering an approved course. The notification shall include the date(s), time(s), and location(s) where the approved course will be held. A training program shall notify the department at least 24 hours in advance of canceling an approved course.

w. The training program will take a digital photograph of each student. The digital photograph shall be the same photograph that appears on the training certificate and is submitted to the department.

The photograph shall meet the following specifications:

- (1) The individual will be facing the camera.
- (2) The individual's head will not be tilted.
- (3) The individual's head will cover approximately half of the photo area.
- (4) The individual will be in front of a neutral or light-colored background.
- (5) The individual will not wear any items that detract from the face, such as hats or sunglasses.

Only head coverings worn for religious reasons may be worn. Religious head coverings may not cover the face of the individual.

- (6) Photographs will be 24-bit color depth.

x. A training program shall roster each student who has taken the approved course into a database specified by the department. All students shall be rostered into the department database within 20 days of conclusion of an approved course. Rostering shall include:

- (1) Name and address.
- (2) Course completion certificate number.
- (3) Test score.
- (4) The photograph of each student as taken by the training program in a format specified by the department.

70.4(2) If a training program desires approval of a course by the department, the training program will apply to the department for approval at least 90 days before the initial offering of the course. The department may allow courses to be offered sooner if the department completes the approval in less than 90 days. The application shall include:

- a.* Training program name, contact person, address, email address, and telephone number.
- b.* Course for which approval is sought.

c. Course locations, including a description of the facilities and equipment to be used for lecture and hands-on training.

d. Course agenda, including approximate times allotted to each training segment.

e. A copy of each reference material, text, student manual, instructor manual, and audiovisual material used in the course.

f. The name(s) and qualifications of the training manager, principal instructor(s), and guest instructor(s). The following documents shall be submitted as evidence that training managers and principal instructors have the education, work experience, training requirements, or demonstrated experience required by 70.4(1):

(1) Official transcripts or diplomas as evidence of meeting the education requirements.

(2) Résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(3) Certificates from lead-specific training courses, as evidence of meeting the training requirements.

g. A copy of the course test blueprint.

h. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

i. Maximum class size.

j. A copy of the quality control plan for the course.

k. A nonrefundable fee of \$200.

70.4(3) To be approved for the training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors, a course must be at least 40 training hours with a minimum of 12 hours devoted to hands-on training activities (*). Lead inspector/risk assessor and elevated blood lead (EBL) inspector/risk assessor training courses will cover at least the following subjects:

a. Role and responsibilities of an inspector/risk assessor.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing to determine if a property is free of lead-based paint as specified in the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ((2012), U.S. Department of Housing and Urban Development), and methods to determine if lead-based paint hazards are present in a property.*

e. Paint, dust, and soil sampling methodologies.*

f. Clearance standards and testing, including random sampling.*

g. Collection of background information to perform a risk assessment.

h. Sources of environmental lead contamination such as paint, surface dust and soil, and water.

i. Visual inspection to identify lead-based paint hazards.*

j. Lead hazard screen protocol.

k. Visual risk assessment protocol.

l. Reevaluation protocol.

m. In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint.*

n. In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*

o. Sampling for other sources of lead exposure.*

p. Interpretation of lead-based paint and other lead sampling results, including all applicable federal, state, and local guidance or regulations pertaining to lead-based paint hazards.*

q. Development of lead hazard control options.

r. The role of interim controls, operation and maintenance activities, and renovation in reducing lead-based paint hazards.

- s. Approved methods for conducting lead-based paint abatement, interim controls, operation and maintenance activities, and renovation.
- t. Prohibited methods for conducting lead-based paint abatement, interim controls, operation and maintenance activities, and renovation.
- u. Interior dust abatement and cleanup.
- v. Soil and exterior dust abatement and cleanup.
- w. Preparation of the final reports for lead inspections, lead-free inspections, risk assessments, visual assessments, lead hazard screens, clearance testing after lead abatement, clearance testing after renovation, reevaluation, and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35.
- x. Recordkeeping.

70.4(4) To be approved for the training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors who have already completed an approved sampling technician course, a course must be at least 20 training hours with a minimum of 8 hours devoted to hands-on training activities (*). The training course shall cover at least the following subjects:

- a. Role and responsibilities of a lead inspector/risk assessor and elevated blood lead (EBL) inspector/risk assessor.
- b. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing to determine if a property is free of lead-based paint as specified in the work practice standards in 641—70.6(10A), and methods to determine if lead-based paint hazards are present in a property.*
- c. Collection of background information to perform a risk assessment.
- d. Lead hazard screen protocol.
- e. Reevaluation protocol.
- f. Sampling for other sources of lead exposure.*
- g. Interpretation of lead-based paint and other lead sampling results, including all applicable federal, state, and local guidance or regulations pertaining to lead-based paint hazards.*
- h. Development of lead hazard control options, including lead abatement.*
- i. The role of interim controls, operation and maintenance activities, and renovation in reducing lead-based paint hazards.
- j. Approved methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.
- k. Prohibited methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.
- l. Preparation of the final reports for lead inspections, lead-free inspections, risk assessments, lead hazard screens, reevaluation, and clearance testing after lead abatement.
- m. Recordkeeping.

70.4(5) To be approved for the training of elevated blood lead (EBL) inspector/risk assessor, a course must be at least a four-hour training course and shall cover at least the following subjects:

- a. Role and responsibility of an elevated blood lead (EBL) inspector/risk assessor.
- b. Background information on childhood lead poisoning prevention programs in Iowa.
- c. EBL lead inspection protocol described in this chapter and the EBL inspection protocol recommended by HUD.
- d. Environmental and medical case management of lead-poisoned children.
- e. Health effects of lead poisoning including an in-depth review of the scientific studies demonstrating the health effects of lead poisoning.
- f. Chelation therapy including at what levels it is recommended and when it might not be needed.
- g. Risk of childhood lead exposure from adult occupations or hobbies.
- h. Case scenarios.*

70.4(6) To be approved for the training of lead abatement contractors, a course must be at least 40 training hours with a minimum of 12 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement contractor.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.
- d.* Liability and insurance issues relating to lead abatement, interim controls, and renovation.
- e.* Identification of lead-based paint and lead-based paint hazards.*
- f.* Interpretation of lead inspection reports.*
- g.* Development and implementation of an occupant protection plan, lead abatement report, and renovation report.
- h.* Respiratory protection and protective clothing.*
- i.* Employee information and training.
- j.* Approved methods for conducting lead abatement, interim controls, and renovation.*
- k.* Prohibited methods for conducting lead abatement, interim controls, and renovation.
- l.* Interior dust abatement and cleanup.*
- m.* Soil and exterior dust abatement and cleanup.*
- n.* Clearance standards and testing, including random sampling.
- o.* Cleanup, waste handling, and waste disposal.
- p.* In the case of renovation, interior and exterior containment and cleanup methods.*
- q.* In the case of renovation, providing on-the-job training to other workers.*
- r.* In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*
- s.* In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*
- t.* In the case of renovation, record preparation and recordkeeping.
- u.* Recordkeeping for lead abatement.

70.4(7) To be approved for the training of lead abatement contractors who have already completed an approved lead abatement worker course, a course must be at least 16 training hours with a minimum of 4 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement contractor.
- b.* Liability and insurance issues relating to lead abatement.
- c.* Interpretation of lead inspection reports.*
- d.* Development and implementation of an occupant protection plan and abatement report.
- e.* Employee information and training.
- f.* Clearance standards and testing, including random sampling.
- g.* Recordkeeping for lead abatement.

70.4(8) To be approved for the training of lead abatement workers, a course must be at least 24 training hours with a minimum of 8 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement worker.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.
- d.* Identification of lead-based paint and lead-based paint hazards.*
- e.* Approved methods for conducting lead abatement, interim controls, and renovation.*
- f.* Prohibited methods for conducting lead abatement, interim controls, and renovation.
- g.* Interior dust abatement and cleanup.*
- h.* Soil and exterior dust abatement and cleanup.*
- i.* Cleanup, waste handling, and waste disposal.
- j.* Respiratory protection and protective clothing.*
- k.* Personal hygiene.

- l.* In the case of renovation, interior and exterior containment and cleanup methods.*
- m.* In the case of renovation, providing on-the-job training to other workers.*
- n.* In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*
- o.* In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*
- p.* In the case of renovation, record preparation and recordkeeping.

70.4(9) To be approved for the training of sampling technicians, a course must be at least 20 training hours with a minimum of 4 hours devoted to hands-on training activities (*). The training course shall cover at least the following subjects:

- a.* Role and responsibilities of a sampling technician.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.
- d.* Methods of conducting visual risk assessments.*
- e.* Paint, dust, and soil sampling methodologies.*
- f.* In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint.*
- g.* Clearance standards and testing.*
- h.* Identification of lead-based paint hazards.*
- i.* Sources of environmental lead contamination such as paint, surface dust and soil, and water.
- j.* Visual inspection to identify lead-based paint hazards.*
- k.* Approved methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.
- l.* Prohibited methods for conducting lead abatement, interim controls, operation and maintenance activities, and renovation.
- m.* Methods of interim controls and lead abatement for interior dust and cleanup.
- n.* Methods of interim controls and lead abatement for exterior dust and soil and cleanup.
- o.* Preparation of the final visual assessment report.
- p.* Preparation of clearance testing reports for clearance testing after renovation and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35.
- q.* Recordkeeping.

70.4(10) To be approved for the training of project designers, a course must be at least 48 instructional training hours with a minimum of 12 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement contractor.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.
- d.* Liability and insurance issues relating to project design.
- e.* Identification of lead-based paint and lead hazards.*
- f.* Interpretation of lead inspection reports.*
- g.* Development and implementation of an occupant protection plan, lead abatement report, and renovation report.
- h.* Respiratory protection and protective clothing.*
- i.* Employee information and training.
- j.* Approved methods for conducting lead abatement, interim controls, and renovation.*
- k.* Prohibited methods for conducting lead abatement, interim controls, and renovation.
- l.* Interior dust abatement and cleanup.*

- m.* Soil and exterior dust abatement and cleanup.*
- n.* Clearance standards and testing, including random sampling.
- o.* Cleanup, waste handling, and waste disposal.
- p.* In the case of renovation, providing on-the-job training to other workers.*
- q.* In the case of renovation, procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*
- r.* In the case of renovation, methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*
- s.* In the case of renovation, record preparation and recordkeeping.
- t.* Recordkeeping for lead abatement.
- u.* Role and responsibilities of a project designer.
- v.* Development and implementation of an occupant protection plan for large-scale lead abatement projects.
- w.* Lead abatement and lead hazard reduction methods, including restricted practices for large-scale lead abatement projects.
- x.* Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale lead abatement projects.
- y.* Clearance standards and testing for large-scale lead abatement projects.
- z.* Integration of lead abatement methods with modernization and rehabilitation projects for large-scale lead abatement projects.

70.4(11) To be approved for the training of project designers who have already completed an approved lead abatement contractor course, a course must be at least eight instructional training hours and shall cover at least the following subjects:

- a.* Role and responsibilities of a project designer.
- b.* Development and implementation of an occupant protection plan for large-scale abatement projects.
- c.* Lead abatement and lead hazard reduction methods, including restricted practices for large-scale lead abatement projects.
- d.* Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale lead abatement projects.
- e.* Clearance standards and testing for large-scale lead abatement projects.
- f.* Integration of lead abatement methods with modernization and rehabilitation projects for large-scale lead abatement projects.

70.4(12) To be approved for the training of project designers who have already completed an approved lead abatement worker course, a course must be at least 24 instructional training hours with a minimum of 4 hours devoted to hands-on activities (*) and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement contractor.
- b.* Liability and insurance issues relating to lead abatement.
- c.* Interpretation of lead inspection reports.*
- d.* Development and implementation of an occupant protection plan and lead abatement report.
- e.* Employee information and training.
- f.* Clearance standards and testing, including random sampling.
- g.* Recordkeeping.
- h.* Role and responsibilities of a project designer.
- i.* Development and implementation of an occupant protection plan for large-scale lead abatement projects.
- j.* Lead abatement and lead hazard reduction methods, including restricted practices for large-scale lead abatement projects.
- k.* Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale lead abatement projects.
- l.* Clearance standards and testing for large-scale lead abatement projects.

m. Integration of lead abatement methods with modernization and rehabilitation projects for large-scale lead abatement projects.

70.4(13) To be approved for the training of lead-safe renovators, a course must be at least eight instructional training hours with a minimum of two hours devoted to hands-on activities (*) and shall cover at least the following subjects:

- a.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- b.* Background information on federal, state, and local regulations and guidance that pertain to lead-based paint, lead-based paint activities, and renovation activities.
- c.* Procedures for using recognized test kits to determine whether paint is lead-based paint, including preparation of the required report.*
- d.* Renovation methods to minimize the creation of dust and lead-based paint hazards.*
- e.* Prohibited methods of renovation.
- f.* Interior and exterior containment and cleanup methods.*
- g.* Methods to ensure that the renovation has been properly completed, including postrenovation cleaning verification and clearance testing.*
- h.* Waste handling and disposal.
- i.* Providing on-the-job training to other workers.*
- j.* Record preparation and recordkeeping.

70.4(14) To be approved for refresher training of sampling technicians, lead abatement contractors, lead abatement workers, and project designers, a course must be at least eight training hours. To be approved for refresher training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors who completed an approved 24-hour training course, a course must be at least 8 training hours to meet the recertification requirements of 70.5(3). To be approved for refresher training of lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors to meet the recertification requirements of 70.5(6), a course must be at least 16 training hours. To be approved for refresher training of lead-safe renovators, a course must be at least four hours and must include a hands-on component. All refresher training courses shall cover at least the following topics:

- a.* A review of the curriculum topics of the initial certification course for the appropriate discipline as listed in 70.4(3) through 70.4(13).
- b.* An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
- c.* Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
- d.* Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

70.4(15) Approvals of training courses shall expire three years after the date of issuance. The training manager will submit the following at least 30 days prior to the expiration date for a course to be reapproved:

- a.* Sponsoring organization name, contact person, address, and telephone number.
- b.* A list of the courses for which reapproval is sought.
- c.* A description of any changes to the training staff, facility, equipment, or course materials since the approval of the training program.
- d.* A statement signed by the training manager stating that the training program complies at all times with 641—70.4(10A).
- e.* A nonrefundable fee of \$200.

70.4(16) The department shall consider a request for approval of a training course that has been approved by a state or tribe authorized by the U.S. Environmental Protection Agency.

- a.* The course shall be approved if it meets the requirements of 641—70.4(10A).
- b.* If the course does not meet all of the requirements of 641—70.4(10A), the department shall inform the training provider of additional topics and training hours that are needed to meet the requirements of 641—70.4(10A).

641—70.5(10A) Certification, interim certification, and recertification. The department issues certifications and recertifications for a three-year time period. Applications for certification or recertification may be made electronically in a format specified by the department or using a paper application supplied by the department.

70.5(1) To become a certified lead professional, provide the following information:

- a.* A completed application form.
- b.* A certificate of completion of an approved course for the discipline in which the applicant intends to become certified.
- c.* If intending to become a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor, documentation of successful completion of the manufacturer's training course or equivalent for the XRF analyzer that the inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use to conduct lead inspections.
- d.* If intending to become a certified elevated blood lead (EBL) inspector/risk assessor, documentation of successful completion of a four-hour elevated blood lead (EBL) inspector/risk assessor course.
- e.* Documentation that the applicant meets the additional experience and education requirements in 70.5(2) for the discipline in which the applicant intends to become certified. The following documents will be submitted as evidence that the applicant has the education and work experience required by 70.5(2):
 - (1) Official transcripts or diplomas as evidence of meeting the education requirements.
 - (2) Résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.
- f.* To become certified as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, or project designer, a certificate showing that the applicant has passed the state certification examination in the discipline in which the applicant intends to become certified.
- g.* A \$180 nonrefundable fee.
- h.* A person may receive interim certification from the department as a lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, or project designer by submitting the items required by 70.5(1) "a" through "e" and "g" to the department. Interim certification expires six months from the date of completion of an approved course. An applicant may upgrade an interim certification to a certification by submitting a certificate to the department showing that the applicant has passed the state certification examination as required by 70.5(1) "f." Interim certification is equivalent to certification.

70.5(2) To become certified as a lead professional, an applicant must meet the education and experience requirements for the appropriate discipline:

- a.* Lead inspector/risk assessors and elevated blood lead (EBL) inspector/risk assessors must meet one of the following requirements:
 - (1) Bachelor's degree and one year of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).
 - (2) Associate's degree and two years of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).
 - (3) High school diploma and three years of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).
 - (4) Certification as an industrial hygienist, professional engineer, registered architect, registered sanitarian, registered environmental health specialist, or registered nurse.
- b.* Lead abatement contractors must meet one of the following requirements:
 - (1) One year of experience as a certified lead abatement worker.
 - (2) Two years of related experience or education (e.g., lead, housing inspection, building trades, property management and maintenance).
- c.* No additional education or experience is mandated for lead abatement workers.
- d.* Sampling technicians must meet one of the following requirements:

- (1) Associate's degree.
- (2) High school diploma and one year of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).
- (3) Certification as an industrial hygienist, professional engineer, registered architect, registered sanitarian, registered environmental health specialist, or registered nurse.
- e.* Project designers must meet one of the following requirements:
 - (1) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field.
 - (2) Four years of experience in building construction and design or a related field.
- f.* No additional education or experience is mandated for lead-safe renovators.

70.5(3) Review of convictions.

a. Unless an applicant for licensure petitions the department for an eligibility determination pursuant to 70.5(3)"*b.*," the applicant's convictions will be reviewed when the department receives a completed certification application.

- (1) An applicant must disclose all convictions on a certification application. Failure to disclose all convictions is grounds for certification denial or disciplinary action following certification issuance.
- (2) 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 practice of the profession in order for the certification application to be considered complete.
- (3) An applicant should submit any evidence of rehabilitation that the applicant wishes to be considered by the department.

(4) The department may deny a certification 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.

(5) An applicant with disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for certification.

(6) Application fees paid will not be refunded if the certification is denied.

b. An individual who has not yet submitted a completed certification application may petition the department for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for certification. To do so, a petitioner shall submit all of the following:

- (1) A completed petition for 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 department should find the petitioner rehabilitated;
- (4) All evidence of rehabilitation that the petitioner wishes to be considered by the department; and
- (5) Payment of a nonrefundable fee of \$25.

c. A petitioner deemed ineligible or an applicant denied a certification because of a disqualifying offense may appeal the decision, in writing, within 20 days of the date of the department's written decision or in another manner and timeframe set forth in the department's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department's rules governing contested case proceedings at 481—Chapter 9 and 481—Chapter 10 apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the department's written decision becomes a final order.

d. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a certification application prior to the date specified in the final order. If a final order denies a certification application, the applicant may not submit a subsequent certification application or a petition for eligibility determination prior to the date specified in the final order.

70.5(4) Individuals applying for renewal as lead professionals must submit the following:

- a.* A completed application form.
- b.* A \$180 nonrefundable fee.

c. A certificate showing that the applicant has successfully completed an approved refresher training course for the appropriate discipline. The refresher training course has to be completed no more than three years prior to the date of the application for recertification.

70.5(5) The department will approve the state certification examinations for the disciplines of lead inspector/risk assessor, elevated blood lead (EBL) inspector/risk assessor, lead abatement contractor, and project designer. The state certification examination shall be administered by selected community college testing centers in Iowa. A community college testing center will set the fee for administering the state certification examination to each applicant and collect the fee from each applicant.

a. An individual must achieve a score of at least 80 percent on the examination. An individual may take the state certification examination no more than three times within six months of receiving a certificate of completion from an approved course.

b. If an individual does not pass the state certification examination within six months of receiving a certificate of completion from an approved course, the individual must retake the appropriate approved course before reapplying for certification.

70.5(6) Each applicant for certification who is certified in any of the disciplines specified in this rule in another state may request reciprocal certification. The department will evaluate the requirements for certification to determine that the requirements for certification in such other state are as protective of health and the environment as the requirements for certification in Iowa. For all disciplines except lead-safe renovator and lead abatement worker, if the department determines that the requirements for certification in such other state are as protective of health and the environment as the requirements for certification in Iowa, the applicant may be certified after passing a proctored test covering Iowa-specific lead information with a score of at least 80 percent. For a lead-safe renovator and lead abatement worker, if the department determines that the requirements for certification in such other state are as protective of health and the environment as the requirements for certification in Iowa, the applicant may be certified after signing a statement indicating that the applicant has read and understands Iowa-specific lead information provided by the department. Each applicant for certification pursuant to this subrule will submit the appropriate application accompanied by the fee for each discipline as specified in 641—70.5(10A).

641—70.6(10A) Work practice standards for lead professionals conducting lead-based paint activities in target housing and child-occupied facilities. All lead-based paint activities shall be performed according to the work practice standards herein. A certified individual shall perform that activity in compliance with the standards herein.

70.6(1) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct a lead-free inspection according to the following standards. A lead-free inspection will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. When conducting a lead-free inspection in a residential dwelling, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint in each room, including each exterior side.

(2) Except for components known to have been replaced after December 31, 1977, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. Except for walls, one sample will be taken for each testing combination in a room. Each wall in a room will be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will require one of the following two types of evidence to determine that components were replaced after 1977:

1. Detailed specifications showing which components were to be replaced, restored, enclosed, or encapsulated and evidence that the work was actually completed such as receipts for building materials, city building records showing a date of remodeling, or a final inspection by the city or another inspector showing that the work was actually completed.

2. A certification under penalty of perjury per Iowa Code section 622.1 from the contractor who did the work or from the person(s) who owned the property at the time outlining all of the components that were removed and replaced.

If one of these two types of evidence is not available, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test the component.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will note any components where lead-based paint has been enclosed or encapsulated. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not make a determination that the residential dwelling is lead-free where components that are painted with lead-based paint have been enclosed or encapsulated.

(4) Paint will be tested using adequate quality control by X-ray fluorescence (XRF) or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use standards provided by the manufacturer and the NIST 1.02 standard film for calibration of the X-ray fluorescence analyzer.

3. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection, every four hours, and at the end of the inspection.

4. Prior to taking the final set of calibration readings and if recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading.

5. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/

risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint.

6. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If instructed by the property owner or the person requesting the report, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that inconclusive readings are positive, but will not assume that inconclusive readings are negative.

7. As described by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct retesting of ten surfaces, calculate the retest tolerance limit, and determine whether the inspection meets the retest tolerance limit. If the retest tolerance limit is not met, then this procedure will be repeated with ten additional surfaces. If the retest tolerance limit is not met with the 20 retested surfaces, then all results of the inspection will be considered invalid.

(5) If each testing combination in the residential dwelling is found to be free of lead-based paint, then the residential dwelling is free of lead-based paint. If any surface in the residential dwelling is found to be painted with lead-based paint, then the residential dwelling is not free of lead-based paint.

(6) If lead-based paint is identified through a lead-free inspection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

(7) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a lead-free inspection is completed. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the lead-free inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The report will include, at least:

1. A statement that the inspection was conducted to determine whether the residential dwelling is free of lead-based paint;
2. Date of inspection;
3. Address of building;
4. Date of construction;
5. Apartment numbers (if applicable);
6. The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
7. Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;
8. Name and certification number of the certified firm(s) conducting the inspection;
9. Name, address, and telephone number of each laboratory conducting an analysis of collected samples;
10. Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any X-ray fluorescence (XRF) device;
11. XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated at each required calibration;
12. Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;

13. The results of retesting of ten surfaces, calculations to determine the retest tolerance limit, and the determination of whether the inspection meets the retest tolerance limit;

14. If the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that the residential dwelling is free of lead-based paint, the report will contain the following statement:

“The results of this inspection indicate that no lead in amounts greater than or equal to 1.0 mg/cm² in paint was found on any building components, using the inspection protocol in Chapter 7 of the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ((2012), U.S. Department of Housing and Urban Development). Therefore, this residential dwelling qualifies for the exemption in 24 CFR Part 35 and 40 CFR Part 745 for target housing being leased that is free of lead-based paint, as defined in the rule. However, some painted surfaces may contain levels of lead below 1.0 mg/cm², which could create lead dust or lead-contaminated soil hazards if the paint is turned into dust by abrasion, scraping, or sanding. This report should be kept by the owner and all future owners for the life of the residential dwelling. Per the disclosure requirements of 24 CFR Part 35 and 40 CFR Part 745, prospective buyers are entitled to all available inspection reports should the property be resold.”;

15. If any lead-based paint is identified, a description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

16. A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

17. Information regarding the owner’s obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

18. Information regarding Iowa’s prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa’s regulations for renovation, remodeling and repainting found in 641—Chapter 70; and

19. The report will contain the following statement:

“The Iowa Department of Inspections, Appeals, and Licensing may review this report for compliance purposes. It is a violation of law for anyone other than the certified lead professional signing it to alter this report. This report may be supplemented with additional information, so long as any addendum is signed by a lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor certified according to Iowa Administrative Code 641—70.3(10A) and 70.5(10A).”

b. When conducting a lead-free inspection in multifamily housing, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) A certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may randomly select residential dwellings for testing when conducting a lead-free inspection in multifamily housing. If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not randomly select the residential dwellings for testing or if there are not enough residential dwellings to randomly select them for sampling, all residential dwellings will be tested. If random selection is used, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor conducting the lead-free inspection will randomly select the residential dwellings to be tested. The property owner, manager, or another interested party will not specify which residential dwellings are to be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

Table 1

Minimum Number of Residential Dwellings to be Randomly Selected in Multifamily Housing
for Lead-Free Inspection, Risk Assessment, Lead Hazard Screen, or Clearance Testing

Number of Similar Residential Dwellings, Similar Common Areas, or Similar Exteriors in Multifamily Housing	Lead-Free Inspection, Risk Assessment, or Lead Hazard Screen		Clearance Testing
	Number of Pre-1960 Residential Dwellings or Residential Dwellings of Unknown Date of Construction to Randomly Select for Testing	Number of 1960-1977 Residential Dwellings to Randomly Select for Testing	Number of Residential Dwellings to Randomly Select for Clearance Testing
1-9	All	All	All
10-13	All	10	All
14	All	11	All
15	All	12	All
16-17	All	13	All
18	All	14	All
19	All	15	All
20	All	16	All
21-26	20	16	20
27	21	17	21
28	22	18	22
29	23	18	23
30	23	19	23
31	24	19	24
32	25	19	25
33-34	26	19	26
35	27	19	27
36	28	19	28
37	29	19	29
38-39	30	20	30
40-48	31	21	31
49-50	31	22	31
51	32	22	32
52-53	33	22	33
54	34	22	34
55-56	35	22	35
57-58	36	22	36
59	37	23	37
60-69	38	23	38
70-73	38	24	38
74-75	39	24	39
76-77	40	24	40
78-79	41	24	41
80-88	42	24	42
89-95	42	25	42
96-97	43	25	43
98-99	44	25	44
100-109	45	25	45
110-117	45	26	45
118-119	46	26	46
120-138	47	26	47
139-157	48	26	48
158-159	49	26	49

Number of Similar Residential Dwellings, Similar Common Areas, or Similar Exteriors in Multifamily Housing	Lead-Free Inspection, Risk Assessment, or Lead Hazard Screen		Clearance Testing
	Number of Pre-1960 Residential Dwellings or Residential Dwellings of Unknown Date of Construction to Randomly Select for Testing	Number of 1960-1977 Residential Dwellings to Randomly Select for Testing	Number of Residential Dwellings to Randomly Select for Clearance Testing
160-177	49	27	49
178-197	50	27	50
198-218	51	27	51
219-258	52	27	52
259-279	53	27	53
280-299	53	28	53
300-379	54	28	54
380-499	55	28	55
500-776	56	28	56
777-939	57	28	57
940-1004	57	29	57
1005-1022	58	29	58
1023-1032	59	29	59
1033-1039	59	30	59
1040+	5.8%, rounded to the next highest whole number	2.9%, rounded to the next highest whole number	5.8%, rounded to the next highest whole number

(2) A certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may randomly select each type of common area in the multifamily housing, including but not limited to hallways, exterior sides of a building, and laundry rooms, for testing. Each type of common area will be counted separately. If built before 1960, the multifamily housing will contain at least 20 of a type of common area in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten of a type of common area in order to use random selection. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not randomly select the common areas for testing or if there are not enough common areas to randomly select them for testing, all common areas will be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of each type of common area to randomly select for testing.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint in each room of each residential dwelling selected for testing and in each common area selected for testing.

(4) Except for components known to have been replaced after December 31, 1977, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room of a residential dwelling chosen for testing and in each common area chosen for testing. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. Each wall in a room or a common area will be tested. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will require one of the following two types of evidence to determine that components were replaced after 1977:

1. Detailed specifications showing which components were to be replaced, restored, enclosed, or encapsulated and evidence that the work was actually completed such as receipts for building materials, city building records showing a date of remodeling, or evidence of a final inspection by the city or another inspector showing that the work was actually completed.

2. A certification under penalty of perjury per Iowa Code section 622.1 from the contractor who did the work or from the person(s) who owned the property at the time outlining all of the components that were removed and replaced.

If one of these two types of evidence is not available, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test the component.

(5) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will note any components where lead-based paint has been enclosed or encapsulated. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not make a determination that a component or the multifamily housing is lead-free where components that are painted with lead-based paint have been enclosed or encapsulated.

(6) Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not use an X-ray fluorescence analyzer using a software version or a mode of operation that could result in inconclusive readings or that recommends substrate correction.

3. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use standards provided by the manufacturer and the NIST 1.02 standard film for calibration of the X-ray fluorescence analyzer.

4. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection, every four hours, and at the end of the inspection.

5. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading as positive or negative according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint.

6. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will count the number of XRF readings taken for each component type. If fewer than 40 of any component type were tested, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will randomly choose additional testing combinations for the component type to reach a total of 40 XRF readings. If fewer than 40 testing combinations are available for testing, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination.

(7) For each component type where at least 40 testing combinations have been tested, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine the number and percentage of each component type that is classified as positive or negative. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each component type as follows:

1. Lead-based paint is not present on a component type if all readings are classified as negative.
2. Lead-based paint is present on a component type if at least 15 percent of the readings are classified as positive.

3. Lead-based paint is present on a component type if greater than or equal to 5 percent but less than 15 percent of the XRF readings are classified as positive, unless the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor collects paint samples and obtains

laboratory analyses for all positive XRF readings. If the laboratory analyses show that lead-based paint is not present on any components, then the component type is negative. If the laboratory analyses show that lead-based paint is present on any component, then the component type is positive.

4. Lead-based paint is present on a component type if greater than 0 but less than 5 percent of the XRF readings are classified as positive, unless the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor collects paint samples and obtains laboratory analyses for all positive XRF readings or randomly selects a second set of residential dwellings for testing. If the laboratory analyses show that lead-based paint is not present on any components, then the component type is negative. If the laboratory analyses show that lead-based paint is present on any component, then the component type is positive. If a second set of randomly selected residential dwellings is sampled and greater than 0 but less than 2.5 percent of the combined set of results is positive, the component type may be considered as not having lead-based paint development-wide but rather, having lead-based paint in isolated locations, with a reasonable degree of confidence. Individual components that are classified as positive should be considered lead-based painted and managed or abated appropriately.

5. If a particular component type in the sampled residential dwellings is classified as positive, that same component type in the unsampled residential dwellings is also classified as positive.

(8) If fewer than 40 of a component type are available for testing, each testing combination will be classified individually as positive or negative.

(9) If any component type or individual component is classified as positive, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that the multifamily housing is free of lead-based paint.

(10) As specified by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct retesting of ten surfaces selected from two residential dwellings, calculate the retest tolerance limit, and determine whether the inspection meets the retest tolerance limit. If the retest tolerance limit is not met, then this procedure will be repeated with ten additional surfaces selected from the two residential dwellings. If the retest tolerance limit is not met with the 20 retested surfaces, then all results of the inspection will be considered invalid.

(11) If lead-based paint is identified on any component or component type, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

(12) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility inspected. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The inspection report will include, at least:

1. Date of each inspection;
2. Address of each building in the multifamily housing;
3. Date of construction for each building in the multifamily housing;
4. A list of the apartments and common areas in each building in the multifamily housing;
5. The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
6. A statement that the inspection was conducted to determine that lead-based paint is not present;
7. The name of the Iowa-certified inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor who randomly selected the residential dwellings and common areas for testing;
8. The number of residential dwellings and common areas that were selected for testing, how these numbers were determined, and a list of the residential dwellings and common areas that were selected for testing;

9. Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;
10. Name and certification number of the certified firm(s) conducting the inspection;
11. Name, address, and telephone number of each laboratory conducting an analysis of collected samples;
12. Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any XRF analyzer;
13. XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated at each required calibration;
14. Specific locations by room of each painted component tested for the presence of lead-based paint and by residential dwelling or common area and the results for each component expressed in terms appropriate to the sampling method used;
15. Component aggregations and the determination of whether lead-based paint is present by component type;
16. The results of retesting of ten surfaces, calculations to determine the retest tolerance limit, and the determination of whether the inspection meets the retest tolerance limit;
17. If the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that the multifamily housing is free of lead-based paint, the report will contain the following statement:

“The results of this inspection indicate that no lead in amounts greater than or equal to 1.0 mg/cm² in paint was found on any building components, using the inspection protocol in Chapter 7 of the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing ((2012), U.S. Department of Housing and Urban Development). Therefore, this multifamily housing qualifies for the exemption in 24 CFR Part 35 and 40 CFR Part 745 for target housing being leased that is free of lead-based paint, as defined in the rule. However, some painted surfaces may contain levels of lead below 1.0 mg/cm², which could create lead dust or lead-contaminated soil hazards if the paint is turned into dust by abrasion, scraping, or sanding. This report should be kept by the owner and all future owners for the life of the multifamily housing. Per the disclosure requirements of 24 CFR Part 35 and 40 CFR Part 745, prospective buyers are entitled to all available inspection reports should the property be resold.”;
18. If any lead-based paint is identified, a description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;
19. A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;
20. Information regarding the owner’s obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;
21. Information regarding Iowa’s prerenovation notification requirements found in 641—Chapter 69 and information regarding Iowa’s regulations for renovation found in 641—Chapter 70; and
22. The report will contain the statement set forth in 70.6(1) “a”(7)“19.”

70.6(2) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct lead inspections according to the following standards. Lead inspections will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. When conducting a lead inspection in a residential dwelling or child-occupied facility, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint in each room, including each exterior side.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. One sample will be taken for each testing combination in a room, including the walls. If a testing combination is painted and not tested, it will be assumed to be painted with lead-based paint.

b. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

(4) If recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that all of the readings are positive and will not state that a surface is free of lead-based paint.

(5) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated

blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

(6) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings by laboratory analysis, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

c. If lead-based paint is identified through an inspection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

d. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility inspected. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The inspection report will include, at least:

(1) A statement that the inspection was conducted to identify lead-based paint and lead-based paint hazards in the residential dwelling;

(2) Date of each inspection;

(3) Address of building;

(4) Date of construction;

(5) Apartment numbers (if applicable);

(6) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(7) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;

(8) The name and certification number of the certified firm(s) conducting the inspection;

(9) Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any XRF analyzer;

(11) XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;

(13) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;

(14) A description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified

on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

(15) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

(16) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(17) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(18) The report will contain the statement as set forth in 70.6(1) "a"(7)"19."

70.6(3) A certified elevated blood lead (EBL) inspector/risk assessor will conduct elevated blood lead (EBL) inspections according to the following standards. Elevated blood lead (EBL) inspections will be conducted only by a certified elevated blood lead (EBL) inspector/risk assessor. This protocol may be used for children who do not meet the definition of an EBL child as defined in this chapter as long as the inspection is authorized by the department, a local board of health, or a public housing agency.

a. When conducting an elevated blood lead (EBL) inspection, the certified elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

(1) The certified elevated blood lead (EBL) inspector/risk assessor will test paint in each room, including each exterior side.

(2) The certified elevated blood lead (EBL) inspector/risk assessor will test each testing combination in each room. One sample will be taken for each testing combination in a room, including walls. On windows, the window frame, interior windowsill, window sash, and window trough will each be considered a separate testing combination. If a testing combination is painted and not tested, it will be assumed to be painted with lead-based paint.

b. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

(1) The certified elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

(2) The certified elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

(3) The certified elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

(4) If recommended by the performance characteristics sheet, the certified elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified

elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified elevated blood lead (EBL) inspector/risk assessor will assume that all of the readings are positive and will not state that a surface is free of lead-based paint.

(5) The certified elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

(6) The certified elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings, then the certified elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

c. If lead-based paint is identified through an elevated blood lead (EBL) inspection, the certified elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the play area or in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

d. No later than two weeks after the receipt of laboratory results, a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where an elevated blood lead (EBL) inspection has been conducted and will provide a copy of this report to the property owner and the occupant of the dwelling. The report will include, at least:

(1) A statement that the elevated blood lead (EBL) inspection was conducted to identify lead-based paint and lead-based paint hazards in the residential dwelling;

(2) Date of each elevated blood lead (EBL) inspection;

(3) Address of building;

(4) Date of construction;

(5) Apartment numbers (if applicable);

(6) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(7) Name, signature, and certification number of each certified elevated blood lead (EBL) inspector/risk assessor conducting the inspection;

(8) Name and certification number of the certified firm(s) conducting the inspection;

(9) Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

(10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any XRF analyzer;

(11) XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;

(12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;

(13) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;

(14) A description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other

potential lead hazards, including bare soil in the play area or in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;

(15) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;

(16) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(17) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(18) The report will contain the statement set forth in 70.6(1) "a"(7) "19."

e. A certified elevated blood lead (EBL) inspector/risk assessor will maintain for no fewer than ten years a written record for each residential dwelling or child-occupied facility where an elevated blood lead (EBL) inspection has been conducted. The record will include, at least:

(1) A copy of the written report required by 70.6(3) "d."

(2) Blood lead test results for the elevated blood lead (EBL) child.

(3) A record of conversations held with the owners and occupants of each residential dwelling or child-occupied facility prior to, during, and after the EBL inspection.

(4) Records of follow-up visits made to each residential dwelling or child-occupied facility where lead-based paint hazards are identified and, when issued, a copy of the clearance report.

70.6(4) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct lead hazard screens according to the following standards. Lead hazard screens will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years will be collected.

b. A visual inspection of the residential dwelling or child-occupied facility will be conducted to determine if any deteriorated paint is present and to locate at least two dust sampling locations.

c. If deteriorated paint is present, each surface with deteriorated paint that is determined to have a distinct painting history will be tested for the presence of lead. In addition, friction surfaces where there is evidence of abrasion and impact surfaces that are damaged or otherwise deteriorated from impact and that have a distinct painting history will be tested for the presence of lead.

d. In residential dwellings, a minimum of two composite or single-surface dust samples will be collected. One sample will be collected from the floors and the other from the interior windowsills in rooms, hallways, or stairwells where at least one child under the age of six years is most likely to come in contact with dust.

e. In multifamily dwellings and child-occupied facilities, single-surface or composite dust samples will also be collected from common areas where at least one child under the age of six years is likely to come in contact with dust.

f. Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

g. Soil samples will be collected and analyzed for lead content in exterior play areas and dripline areas where bare soil is present. In addition, soil samples will be collected and analyzed for lead content from any other areas of the yard where bare soil is present. Soil and paint samples will be collected using

the documented methodologies specified in guidance documents issued by the department and will be analyzed by a recognized laboratory to determine the level of lead.

h. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the National Institute of Standards and Technology 1.02 milligrams of lead per square centimeter standard reference material or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer.

(3) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

(4) If recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that all the readings are positive and will not state that a surface is free of lead-based paint.

(5) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

(6) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings by laboratory analysis, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

i. The following standards will be used to determine whether a residential dwelling or child-occupied facility fails a lead hazard screen:

(1) A residential dwelling or child-occupied facility will fail a lead hazard screen if any deteriorated paint or paint on friction or impact surfaces is found to be lead-based paint.

(2) A residential dwelling will fail a lead hazard screen if any floor dust lead level in a single-surface or composite-surface dust sample is greater than or equal to 25 micrograms per square foot.

(3) A residential dwelling will fail a lead hazard screen if any interior windowsill dust level in a single-surface or composite-surface dust sample is greater than or equal to 125 micrograms per square foot.

(4) A residential dwelling or child-occupied facility will fail a lead hazard screen if any bare soil is found to be a soil-lead hazard.

j. When conducting a lead hazard screen in multifamily housing, a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor may sample each residential dwelling or choose residential dwellings for sampling by random selection, targeted selection, or worst case selection.

(1) If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

(2) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use targeted selection. If using targeted selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested. Residential dwellings chosen by targeted selection will meet as many of the following criteria as possible:

1. The residential dwelling has been cited with a housing or building code violation within the past year.

2. The property owner believes that the residential dwelling is in poor condition.

3. The residential dwelling contains two or more children between the ages of six months and six years. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will give preference to residential dwellings that house the largest number of children.

4. The residential dwelling serves as a day care facility.

5. The residential dwelling has been prepared for reoccupancy within the past three months. If additional residential dwellings are needed to meet the minimum number specified in Table 2, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will select them randomly. If too many residential dwellings meet the criteria, residential dwellings will be eliminated randomly.

Table 2

Minimum Number of Residential Dwellings in Multifamily Housing for Risk Assessment
or Lead Hazard Screen Through Targeted Selection

Number of Similar Residential Dwellings	Number of Residential Dwellings to Sample*
1-4	All

Number of Similar Residential Dwellings	Number of Residential Dwellings to Sample*
5-20	4 residential dwellings or 50% (whichever is greater)**
21-75	10 residential dwellings or 20% (whichever is greater)**
76-125	17
126-175	19
176-225	20
226-300	21
301-400	22
401-500	23
501+	24 + 1 residential dwelling for each additional increment of 100 residential dwellings or less

*Does not include residential dwellings housing children with elevated blood lead levels.

**For percentages, round up to determine number of residential dwellings to be sampled.

k. If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use worst case selection. If using worst case selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested.

l. The following standards will be used to determine whether multifamily housing fails a lead hazard screen:

(1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean of the dust lead levels for carpeted floors, uncarpeted floors, and interior windowsills. If the arithmetic mean for carpeted floors or uncarpeted floors is greater than or equal to 25 micrograms per square foot, the multifamily housing will fail the lead hazard screen. If the arithmetic mean for interior windowsills is greater than or equal to 125 micrograms per square foot, the multifamily housing will fail the lead hazard screen. If the arithmetic mean for carpeted floors or uncarpeted floors is less than 25 micrograms per square foot, but some of the samples have dust lead levels that are greater than or equal to 25 micrograms per square foot, then the residential dwellings where these samples were taken and all other similar residential dwellings in the multifamily housing will fail the lead hazard screen. If the arithmetic mean for interior windowsills is less than 125 micrograms per square foot, but some of the samples have dust lead levels that are greater than or equal to 125 micrograms per square foot, then the residential dwellings where these samples were taken and all other similar residential dwellings in the multifamily housing will fail the lead hazard screen.

(2) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will evaluate the results of paint sampling by component and location. If all components at a given location are determined to be painted with lead-based paint or are determined to not be painted with lead-based paint, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume this condition is true for all similar residential dwellings. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not assume that the multifamily housing is free of lead-based paint. If a component at a given location is found to be painted with lead-based paint in some residential dwellings and not painted with lead-based paint in other residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the component is a lead-based paint hazard in all similar residential dwellings. If a component in a residential dwelling is determined or assumed to be lead-based paint, then the entire group of similar residential dwellings in the multifamily housing will fail the lead hazard screen.

(3) Multifamily housing will fail a lead hazard screen if any bare soil is found to be a soil-lead hazard.

m. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a lead hazard screen is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a

copy of the report to the property owner and to the person requesting the lead hazard screen, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The report will include, at least:

- (1) Date of each lead hazard screen.
- (2) Address of building.
- (3) Date of construction.
- (4) Apartment numbers (if applicable).
- (5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
- (6) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the lead hazard screen.
- (7) Name and certification number of the certified firm(s) conducting the lead hazard screen.
- (8) Name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).
- (9) Results of the visual inspection.
- (10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any XRF analyzer.
- (11) If used, XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated.
- (12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component tested expressed in terms appropriate to the sampling method used.
- (13) All results of laboratory analysis of collected paint, dust, and soil samples. The results of dust sampling will be reported in micrograms of lead per square foot, and the results of soil sampling will be reported in parts per million of lead. Results will not be reported as “not detectable.”
- (14) Any other sampling results.
- (15) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint.
- (16) Background information collected regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years.
- (17) Whether the residential dwelling or child-occupied facility passed or failed the lead hazard screen and recommendations, if warranted, for a follow-up lead inspection or risk assessment, and, as appropriate, any further actions.
- (18) Information regarding the owner’s obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.
- (19) Information regarding Iowa’s prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa’s regulations for renovation found in 641—Chapter 70.
- (20) The report will contain the statement set forth in 70.6(1) “a”(7)“19.”

70.6(5) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct risk assessments according to the following standards. Risk assessments will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years will be collected.

b. A visual inspection for risk assessment will be undertaken to locate the existence of deteriorated paint and other potential lead hazards and to assess the extent and causes of the paint deterioration.

c. If deteriorated paint is present, each surface with deteriorated paint that is determined to have a distinct painting history will be tested for the presence of lead.

d. Friction surfaces where there is evidence of abrasion and impact surfaces that are damaged or otherwise deteriorated from impact and that have a distinct painting history will be tested for the presence of lead.

e. In residential dwellings, dust samples will be collected from the interior windowsill, window trough, and floor in all living areas where at least one child is most likely to come in contact with dust. Dust samples will be analyzed for lead concentration and may be either composite or single-surface samples.

f. In multifamily dwellings, dust samples will also be collected from interior windowsills, window troughs, and floors in common areas adjacent to the sampled residential dwellings or child-occupied facility and in other common areas where the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that at least one child under the age of six years is likely to come in contact with dust. Dust samples will be analyzed for lead concentration and may be either composite or single-surface samples.

g. In child-occupied facilities, dust samples will be collected from the interior windowsill, window trough, and floor in each room, hallway, or stairwell utilized by one or more children under the age of six years and in other common areas where the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that at least one child under the age of six years is likely to come in contact with dust. Dust samples will be analyzed for lead concentration and may be either composite or single-surface samples.

h. Soil samples will be collected and analyzed for lead content in exterior play areas and dripline areas where bare soil is present. In addition, soil samples will be collected and analyzed for lead content from any other areas of the yard where bare soil is present.

i. Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet. Soil and paint samples will be collected using the documented methodologies specified in guidance documents issued by the department. Dust and soil samples will be analyzed by a recognized laboratory to determine the level of lead. The results of dust sampling will be reported in micrograms of lead per square foot, and the results of soil sampling will be reported in parts per million of lead. The results will not be reported as "not detectable."

j. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department.

(1) If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film material or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

(2) Subparagraphs 70.6(4)"h"(3) through 70.6(4)"h"(6) are restated as if fully set forth herein.

k. When conducting a risk assessment in multifamily housing, a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor may sample each residential dwelling or choose residential dwellings for sampling by random selection, targeted selection, or worst case selection.

(1) If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

(2) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use targeted selection. If using targeted selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested. Residential dwellings chosen by targeted selection will meet as many of the following criteria as possible. If additional residential dwellings are needed to meet the minimum number specified in Table 2, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will select them randomly. If too many residential dwellings meet the criteria, residential dwellings will be eliminated randomly. Targeted selection criteria are as follows:

1. The residential dwelling has been cited with a housing or building code violation within the past year.
2. The property owner believes that the residential dwelling is in poor condition.
3. The residential dwelling contains two or more children between the ages of six months and six years. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will give preference to residential dwellings that house the largest number of children.
4. The residential dwelling serves as a day care facility.
5. The residential dwelling has been prepared for reoccupancy within the past three months.

(3) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use worst case selection. If using worst case selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested.

(4) The following standards will be used to determine the extent of lead-based paint hazards throughout multifamily housing that is sampled by random selection, targeted selection, or worst case selection:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean of the dust lead levels for carpeted floors, uncarpeted floors, interior windowsills, and window troughs. If the arithmetic mean is greater than or equal to the level defined as a dust lead hazard for the component, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust lead hazard has been identified on the component throughout the multifamily housing. If the arithmetic mean is less than the level defined as a dust lead hazard for the component, but some of the individual components have dust lead levels that are greater than or equal to the level defined as a dust lead hazard, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust lead hazard has been identified on the individual components and on all other similar components throughout the multifamily housing.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will evaluate the results of paint sampling by component and location. If all components at a given location are determined to be painted with lead-based paint or are determined to not be painted with lead-based paint, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume this condition is true for all similar residential dwellings. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not assume that the multifamily housing is free of lead-based paint. If a component at a given location is found to be painted with lead-based paint in some residential dwellings and not painted with lead-based paint in other residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/

risk assessor will assume that the component is a lead-based paint hazard in all similar residential dwellings.

l. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a risk assessment is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the risk assessment, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of the report for no less than three years. The report will include, at least:

- (1) Date of each risk assessment;
- (2) Address of building;
- (3) Date of construction;
- (4) Apartment numbers (if applicable);
- (5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- (6) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the risk assessment;
- (7) Name and certification number of the certified firm(s) conducting the risk assessment;
- (8) Name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b));
- (9) Results of the visual inspection;
- (10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any XRF analyzer;
- (11) If used, XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;
- (12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component tested expressed in terms appropriate to the sampling method used;
- (13) All results of laboratory analysis of collected paint, dust, and soil samples;
- (14) Any other sampling results;
- (15) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;
- (16) Background information collected regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years;
- (17) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint hazards;
- (18) A description of the location, type, and severity of identified lead-based paint hazards, and any other potential lead hazards, including bare soil in the play area or in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;
- (19) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;
- (20) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;

(21) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and

(22) The report will contain the statement set forth in 70.6(1) "a"(7)"19."

70.6(6) A certified lead abatement contractor or certified lead abatement worker will conduct lead abatement according to the following standards. Lead abatement will be conducted only by a certified lead abatement contractor or a certified lead abatement worker.

a. A certified lead abatement contractor will be on site during all work site preparation and during the postabatement cleanup of work areas. At all other times when lead abatement is being conducted, the certified lead abatement contractor will be on site or available by telephone or answering service, and be able to be present at the work site in no more than two hours.

b. A certified lead abatement contractor will ensure that lead abatement is conducted according to all federal, state, and local requirements.

c. A certified lead abatement contractor will notify the department in writing at least seven days prior to the commencement of lead abatement in a residential dwelling or child-occupied facility. The notification will include the following information:

- (1) The address, including apartment numbers, where lead abatement will be conducted.
- (2) The dates when lead abatement will be conducted.
- (3) The name, address, telephone number, Iowa certification number, and signature of the contact for the certified firm that will conduct the work.
- (4) The name, address, telephone number, Iowa certification number, and signature of the certified lead abatement contractor who will serve as the contact person for the project.
- (5) The name, address, and telephone number of the property owner.
- (6) Whether the dwelling is owner-occupied or a rental dwelling.
- (7) If the dwelling is an occupied rental, the names of the occupants.
- (8) The approximate year that the dwelling was built.
- (9) A brief description of the lead abatement work to be done.

d. A certified lead abatement contractor will submit a revised notification to the department if any information in the original notification changes.

e. A certified lead abatement contractor will ensure that the worksite(s) is accessed only by certified lead professionals according to 641—70.3(10A) and 641—70.5(10A). Noncertified individuals will not be allowed access to a worksite. A worksite will remain inaccessible to noncertified individuals until it passes clearance testing.

f. A certified lead abatement contractor or a certified project designer will develop a written occupant protection plan for all lead abatement projects prior to starting lead abatement and will implement the occupant protection plan during the lead abatement project. The occupant protection plan will be unique to each residential dwelling or child-occupied facility. If the occupants will be living at the property where lead abatement is taking place, then the written occupant plan will be given to the occupants prior to the start date of the lead abatement project and will contain at least the following information:

- (1) A description of the type and location of the physical barriers that will keep occupants out of the designated worksite(s).
- (2) An explanation of how the contractor will ensure that the worksite(s) is not entered by the occupants.
- (3) An explanation of how the contractor will ensure that the occupants have access to a kitchen, bathroom, and living area that are not in the worksite(s).

g. Approved methods will be used to conduct lead abatement, and prohibited work practices will not be used to conduct lead abatement.

(1) Signs will be posted and readable. All signs will be posted before lead abatement begins and will remain in place until dust-lead clearance has been passed.

1. To the extent practicable, all signage will be posted in the occupants' primary language.
2. The signs will clearly define the work area.

3. The signs will warn occupants and other persons not involved with the lead abatement to remain outside the work area.

4. The signs will be posted at the entrance(s) to all work areas.

(2) The work area will be effectively contained before the lead abatement begins. To be effective, containment will:

1. Isolate the work area so that no dust or debris leaves the work area while the lead abatement is being performed.

2. Be monitored and maintained so that any plastic or other impermeable materials are not torn or displaced.

3. Be installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(3) For interior lead abatement, containment will include:

1. The removal or covering of all objects from the work area, including but not limited to furniture, rugs, and window coverings. Objects that are not removed from the work area will be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

2. Closing and covering all duct openings in the work area. Ducts will be covered with plastic sheeting or other impermeable material that is taped down.

3. Closing windows and doors in the work area. Doors will be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area will be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4. Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of the surfaces undergoing lead abatement or a sufficient distance to contain the dust, whichever is greater.

5. Ensuring that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving or being removed from the work area.

(4) For exterior lead abatement, containment will include:

1. Closing all doors and windows within 20 feet of the lead abatement. On multistory buildings, all doors and windows within 20 feet of the lead abatement on the same story as the lead abatement will be closed, and all doors and windows on all stories below the lead abatement that are the same horizontal distance from the lead abatement will be closed.

2. Ensuring that doors within the work areas that will be used while the lead abatement is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

3. Covering the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the perimeter of surfaces undergoing lead abatement or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground cover. Exterior ground cover will include anchors or weights to ensure that the covering remains effective even during weather conditions such as high wind.

4. Vertical containment. In certain situations, such as where other buildings are in close proximity to the work area, when conditions are windy, or where the work area abuts a property line, the certified lead abatement contractor or certified lead abatement worker will erect a system of vertical containment designed to prevent dust and debris from migrating to adjacent property or contaminating the ground, other buildings, or any object beyond the work area.

(5) The following are prohibited work practices:

1. Open-flame burning or torching of lead-based paint.

2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with high-efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

3. Uncontained water blasting of lead-based paint.

4. Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.

5. Operating a heat gun at a temperature at or above 1,100 degrees Fahrenheit.

(6) All waste generated during lead abatement will be contained to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal. Any chutes used to remove waste from the work area will be covered.

1. At the conclusion of each workday and at the conclusion of the lead abatement, waste that has been collected from lead abatement activities will be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

2. All waste from lead abatement will be contained during transportation so that no dust or debris is released.

(7) The work area will be cleaned so that no dust, debris, or residue remains after lead abatement. Cleaning will include:

1. The collection of all paint chips and debris and, without dispersing the paint chips and debris, the sealing of the materials in heavy-duty bags.

2. The removal of the protective sheeting used as required in this subrule. The sheeting will be misted, then the sheeting will be folded dirty side inward. All sheeting will be taped shut or otherwise sealed inside heavy-duty bags. Sheeting used to separate work areas from non-work areas will remain in place until after the cleaning and removal of other sheeting. All sheeting will be disposed of as waste.

3. For interior lead abatement, all objects and surfaces in the work area and within two feet of the work area will be cleaned from high to low in the following manner:

- Walls will either be vacuumed with a HEPA vacuum or wiped with a wet cloth, beginning at the ceiling and working toward the floor.

- All remaining surfaces including objects and fixtures will be thoroughly vacuumed with a HEPA vacuum. For carpeted floors and rugs, the HEPA vacuum must be equipped with a beater bar.

- All remaining surfaces, except for carpeted or upholstered surfaces, will also be wiped with a damp cloth. Uncarpeted floors will be thoroughly mopped using a method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

h. Soil abatement will be conducted using one of the following methods:

(1) If soil is removed, soil that is a soil-lead hazard will be replaced by soil with a lead concentration as close to the local background as practicable, but less than 400 parts per million. The soil that is removed will not be used as topsoil at another residential property or child-occupied facility.

(2) If soil is not removed, the soil that is a soil-lead hazard will be remediated to meet the definition of "permanently covered soil."

i. If lead-based paint is removed from a surface, the surface will be repainted or refinished prior to postabatement clearance dust sampling. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will visually verify that lead-based paint was removed from a surface prior to repainting or refinishing.

j. If components painted with lead-based paint are removed, the replacement components will be installed prior to postabatement clearance testing.

k. Postabatement clearance procedures will be conducted by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor. If the abatement is conducted in response to an elevated blood lead (EBL) inspection, clearance will be conducted by a certified elevated blood lead (EBL) inspector/risk assessor. Postabatement clearance testing will be performed by persons or entities independent of those performing lead abatement, unless the designated party uses qualified in-house employees to conduct postabatement clearance testing. An in-house employee will not conduct both lead abatement and the postabatement clearance testing for this work. Postabatement clearance testing will be conducted using the following procedures:

(1) Following a lead abatement, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will review the report of the lead inspection, risk assessment, or visual assessment done prior to the lead abatement project and the lead abatement specifications to determine the lead-based paint hazards that were to be abated by the lead abatement project. The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will perform a

visual inspection to determine if all lead-based paint hazards that were to be abated have been abated and to determine if deteriorated paint surfaces or visible amounts of dust, debris, or residue are still present in the rooms where lead abatement was conducted. If lead-based paint hazards that were to be abated by the project or deteriorated paint surfaces or visible amounts of dust, debris, or residue are present in the rooms where lead abatement was conducted, these conditions must be eliminated prior to the continuation of the clearance procedures. However, elimination of deteriorated paint is not required if it has been determined through paint testing or a lead-based paint inspection that the deteriorated paint is not lead-based paint. Following an exterior lead abatement, a visual inspection will be conducted to determine if all lead-based paint hazards that were to be abated have been abated and to determine if any visible dust or debris remains on any horizontal surfaces in the outdoor living areas close to the abated surface. In addition, a visual inspection will be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface that was abated. If lead-based paint hazards that were to be abated by the project are still present, these conditions must be eliminated prior to the continuation of the clearance procedures. If visible dust, debris, or paint chips are present, they must be removed from the site and properly disposed of according to all applicable federal, state, and local standards.

(2) Following the visual inspection and any required postabatement cleanup, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will conduct clearance sampling for lead in dust. Clearance sampling may be conducted by employing single-surface sampling or composite dust sampling. Interior dust-lead testing will be performed for all projects that include window replacement.

(3) Dust samples will be collected a minimum of one hour after the completion of final postabatement cleanup activities.

(4) Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

(5) The following postabatement clearance activities will be conducted as appropriate based upon the extent or manner of lead abatement activities conducted in the residential dwelling or child-occupied facility:

1. After conducting a lead abatement with containment between abated and unabated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells within the containment area. Dust samples will be taken from one interior windowsill and from one window trough (if available), and one dust sample will be taken from the floor of each of no fewer than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample will be taken from the floor outside of each individual containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, and stairwells will be sampled.

2. After conducting a lead abatement with no containment between abated and unabated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. Dust samples will be taken from one interior windowsill and from one window trough (if available), and one dust sample will be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility, then all rooms, hallways, and stairwells will be sampled.

3. The certified lead abatement contractors and certified lead abatement workers who abate or clean the dwellings will not have any knowledge of which rooms or surfaces will be selected for the dust samples.

- (6) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will compare the residual lead level as determined by the laboratory analysis from each single-surface dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs. If the residual lead level in a single-surface dust sample is greater than or equal to the applicable clearance level for a floor, interior windowsill, or window trough, then the

failed component in each room with a failed single-surface dust sample and that type of component in each room that was not tested will be recleaned. Additional clearance samples will be taken from the failed component in each room where it failed and from enough additional rooms that were not previously tested so that four rooms are sampled. If four rooms are not available, then each available room will be retested. The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will evaluate the results of this testing to determine if the recleaned components meet the clearance level. The components will be recleaned and retested until the clearance level is met.

(7) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will compare the residual lead level as determined by the laboratory analysis from each composite dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a composite dust sample is greater than or equal to the applicable clearance level divided by half the number of subsamples in the composite sample, then all the components represented by the failed composite dust sample will be recleaned and retested until clearance levels are met.

l. In multifamily housing consisting of at least 20 similarly constructed and maintained residential dwellings, random selection for the purpose of clearance testing may be conducted if the following conditions are met:

(1) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will randomly select the residential dwellings that will be sampled. The certified lead abatement contractors and certified lead abatement workers who abate or clean the dwellings do not know which residential dwellings will be selected for the random selection or which rooms or surfaces will be selected for the dust samples.

(2) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the minimum number of residential dwellings selected for dust sampling. This will provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population are greater than or equal to the appropriate clearance levels.

(3) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will sample the randomly selected residential dwellings and evaluate them for clearance according to the procedures found in 70.6(6) "i" through "k."

m. No later than three weeks after the property passes clearance, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a report to the lead abatement contractor that contains the items required by 70.6(6) "n"(7) through 70.6(6) "n"(9).

n. The certified lead abatement contractor or a certified project designer will prepare a lead abatement report containing the following information:

(1) A copy of the original and any revised lead abatement notifications.
(2) Starting and completion dates of the lead abatement project.
(3) The name, address, and telephone number of the property owner(s).
(4) The name, address, and signature of the certified lead abatement contractor and of the certified firm contact for the firm conducting the lead abatement.

(5) Whether or not containment was used and, if containment was used, the locations of the containment.

(6) The occupant protection plan required by 70.6(6) "f."

(7) The name, address, and signature of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting clearance sampling, the date on which the clearance testing was conducted, the results of the visual inspection for the presence of lead hazards that were not abated as specified, deteriorated paint and visible dust, debris, residue, or paint chips in the interior rooms and exterior areas where lead abatement was conducted, and the results of all postabatement clearance testing and all soil analyses, if applicable. The results of dust sampling will be reported in micrograms of lead per square foot by location of sample, and the results of soil sampling will be reported in parts per million of lead. The results will not be reported as "not detectable." If

random selection was used to select the residential dwellings that were sampled, the report will state that random selection was used, the number of residential dwellings that were sampled, and how this number was determined.

(8) A statement that the lead abatement was or was not done as specified and that the rooms and exterior areas where lead abatement was conducted did or did not pass the visual clearance and the clearance dust testing. If the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the clearance testing cannot verify that all lead-based paint hazards have been abated, the report will contain the following statement:

“The purpose of this clearance report is to verify that the lead abatement project was done according to the project specifications. This residential dwelling may still contain hazardous lead-based paint, soil-lead hazards, or dust-lead hazards in the rooms or exterior areas that were not included in the lead abatement project.”

(9) The name, address, and telephone number of each recognized laboratory conducting an analysis of clearance samples and soil samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(10) A detailed written description of the lead abatement project, including lead abatement methods used, locations of rooms and components where lead abatement occurred, reasons for selecting particular lead abatement methods, and any suggested monitoring of encapsulants or enclosures.

(11) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.

(12) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70.

(13) If applicable, a copy of the written consent or waiver required by 70.6(13).

o. The lead abatement report will be completed no later than 30 days after the lead abatement project passes clearance testing.

p. The certified lead abatement contractor will maintain all reports and plans required in this subrule for a minimum of three years.

q. The certified lead abatement contractor will provide a copy of all reports required by this subrule to the building owner and to the person who contracted for the lead abatement, if different.

70.6(7) A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will conduct visual risk assessments according to the following standards. Provided that all of the following standards are met, a certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician may remotely conduct a visual risk assessment using technology that allows for adequate visual evaluation of the painted surfaces. Visual risk assessments will be conducted only by a certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician.

a. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to at least one child under the age of six years will be collected.

b. A visual inspection for risk assessment will be undertaken to locate the existence of deteriorated paint and other potential lead-based paint hazards and to assess the extent and causes of the paint deterioration. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will assess each component in each room, including each exterior side. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will identify the following conditions as potential lead-based paint hazards:

(1) All interior and exterior surfaces with deteriorated paint.

(2) Horizontal hard surfaces, including but not limited to floors and windowsills, that are not smooth or cleanable.

(3) Dust-generating conditions, including but not limited to conditions causing rubbing, binding, or crushing of surfaces known or presumed to be coated with lead-based paint.

(4) Bare soil in the play area and dripline of the home.

c. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will prepare a written report for each residential dwelling or child-occupied facility where a visual risk assessment is conducted. No later than three weeks after completing the visual risk assessment, the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will send a copy of the report to the property owner and to the person requesting the visual risk assessment, if different. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will maintain a copy of the report for no less than three years. The report will include, at least:

- (1) Date of each visual risk assessment;
- (2) Address of building;
- (3) Date of construction;
- (4) Apartment numbers (if applicable);
- (5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- (6) Name, signature, and certification number of each certified sampling technician, certified lead inspector/risk assessor, or certified elevated blood lead (EBL) inspector/risk assessor conducting the visual risk assessment;
- (7) Name and certification number of the certified firm(s) conducting the visual risk assessment;
- (8) A statement that all painted or finished components will be assumed to contain lead-based paint;
- (9) Specific locations of painted or finished components identified as likely to contain lead-based paint and likely to be lead-based paint hazards;
- (10) Specific locations of bare soil in the play area and the dripline of a home;
- (11) If a remote visual risk assessment is conducted, a description of the methodologies used;
- (12) Information for the owner and occupants on how to reduce lead hazards in the residential dwelling or child-occupied facility;
- (13) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;
- (14) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69, and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and
- (15) The following statement:

"The Iowa Department of Inspections, Appeals, and Licensing may review this report for compliance purposes. It is a violation of law for anyone other than the certified lead professional signing it to alter this report. This report may be supplemented with additional information, so long as any addendum is signed by a sampling technician, lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor certified according to Iowa Administrative Code 641—70.3(10A) and 70.5(10A)."

70.6(8) A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will conduct clearance testing according to the following standards. Clearance testing following lead abatement will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor. Clearance testing after renovation and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35 will be conducted only by certified sampling technicians, certified lead inspector/risk assessors, or certified elevated blood lead (EBL) inspector/risk assessors. If the abatement, renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 is conducted in response to an elevated blood lead (EBL) inspection, clearance will be conducted by a certified elevated blood lead (EBL) inspector/risk assessor.

a. Clearance testing following lead abatement will be conducted according to 70.6(6) “i” through “m.”

b. Clearance testing after renovation and clearance testing after interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 will be conducted according to the following standards:

(1) A certified sampling technician will perform clearance testing only for a single-family property or for individual residential dwellings and associated common areas in multifamily housing. A certified sampling technician will not perform clearance testing using random selection of residential dwellings or common areas in multifamily housing.

(2) A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will review the report of the lead inspection, risk assessment, or visual assessment done prior to interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 and the project specifications to determine the lead-based paint hazards that were to be controlled by the project. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will perform a visual inspection to determine if all lead-based paint hazards that were to be controlled by the project have been controlled and to determine if deteriorated paint surfaces or visible amounts of dust, debris, or residue are still present in the rooms where interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation were conducted pursuant to 24 CFR Part 35. If lead-based paint hazards that were to be controlled by the project, deteriorated paint surfaces or visible amounts of dust, debris, or residue are present in these rooms, these conditions must be eliminated prior to the continuation of the clearance testing. However, elimination of deteriorated paint is not required if it has been determined through a lead-based paint inspection that the deteriorated paint is not lead-based paint. If exterior painted surfaces have been disturbed by the interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35, the visual inspection will include an assessment to determine if all exterior lead-based paint hazards that were to be controlled by the project have been controlled and to determine if any visible dust or debris remains on any horizontal surfaces in the outdoor living areas close to the affected exterior painted surfaces. In addition, a visual inspection will be conducted to determine if paint chips are present on the dripline or next to the foundation below any exterior painted surface that was treated. If lead-based paint hazards that were to be controlled by the project are still present, these conditions must be eliminated prior to the continuation of the clearance procedures. If visible dust, debris, or paint chips are present, they must be removed from the site and properly disposed of according to all applicable federal, state, and local standards.

(3) Following the visual inspection and any required cleanup, clearance sampling for lead in dust will be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite dust sampling.

(4) Dust samples will be collected a minimum of one hour after the completion of final cleanup activities.

(5) Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

(6) The following clearance activities will be conducted as appropriate based upon the extent or manner of renovation or of interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 in the residential dwelling or child-occupied facility:

1. After conducting renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35, with containment between treated and untreated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells within the containment area. Dust samples will be taken from one interior

windowsill and from one window trough (if available), and one dust sample will be taken from the floor of each of no fewer than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample will be taken from the floor outside of each individual containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, and stairwells will be sampled. Interior dust-lead testing will be performed for all projects that include window replacement.

2. After conducting renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35, with no containment between treated and untreated areas, three dust samples will be taken from each of no fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. Dust samples will be taken from one interior windowsill and window trough (if available), and one dust sample will be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility, then all rooms, hallways, and stairwells will be sampled. Interior dust-lead testing will be performed for all projects that include window replacement.

(7) The contractors conducting the work or cleaning the dwellings will not know which rooms or surfaces will be selected for the dust samples.

(8) The certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will compare the residual lead level as determined by the laboratory analysis from each single-surface dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs. If the residual lead level in a single-surface dust sample is greater than or equal to the applicable clearance level for a floor, interior windowsill, or window trough, then the failed component in each room with a failed single-surface dust sample and that type of component in each room that was not tested will be recleaned. Additional clearance samples will be taken from the failed component in each room where it failed and from enough additional rooms that were not previously tested so that four rooms are sampled. If four rooms are not available, then each available room will be retested. The certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will evaluate the results of this testing to determine if the recleaned components meet the clearance level. The components will be recleaned and retested until the clearance level is met.

(9) The certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will compare the residual lead level as determined by the laboratory analysis from each composite dust sample with applicable single-surface clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a composite dust sample is greater than or equal to the applicable clearance level divided by half the number of subsamples in the composite sample, then all the components represented by the failed composite dust sample will be recleaned and retested until clearance levels are met.

c. In multifamily housing consisting of at least 20 similarly constructed and maintained residential dwellings, random selection for the purpose of clearance testing may be conducted if the following conditions are met:

(1) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will randomly select the dwellings that will be sampled. The contractors and the workers who conducted the lead abatement, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation do not know which residential dwellings will be selected for the random selection.

(2) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the minimum number of dwellings selected for dust sampling. This will provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population are greater than or equal to the appropriate clearance levels.

(3) The certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will sample the randomly selected residential dwellings and evaluate them for clearance according to the procedures found in 70.6(6) “h” through “j.”

(4) The clearance testing is conducted by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

d. A clearance report will be prepared that provides documentation of the lead abatement, renovation, or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 as well as the clearance testing. When lead abatement is performed, the report will be a lead abatement report in accordance with 70.6(6) “n.” *When renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 is performed, the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will prepare a written report for each residential dwelling or child-occupied facility where clearance testing is conducted. No later than 30 days after the property passes clearance, the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician will send a copy of the report to the property owner and to the person requesting the clearance testing, if different. The clearance report will include the following information:*

(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected.

(2) The following information regarding the clearance testing:

1. The date(s) of the clearance testing.

2. The name, address, and signature of each certified lead professional performing the clearance examination, including the certification number.

3. The name and certification number of the certified firm(s) conducting the clearance testing.

4. Whether or not containment was used and, if containment was used, the locations of the containment.

5. If random selection was used to select the residential dwellings that were sampled, the report will state that random selection was used, the number of residential dwellings that were sampled, and how this number was determined.

6. The results of the visual inspection for the presence of deteriorated paint and visible dust, debris, residue, or paint chips in the rooms where renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation was conducted pursuant to 24 CFR Part 35.

7. All of the results of the analysis of dust samples, in micrograms per square foot, by location of sample. The results will not be reported as “not detectable.”

8. A statement that the renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation conducted pursuant to 24 CFR Part 35 was or was not done as specified and that the rooms and exterior areas where these activities were conducted did or did not pass the visual clearance and the clearance dust testing. If the certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician conducting the clearance testing cannot verify that all lead-based paint hazards have been controlled, the report will contain the following statement:

“The purpose of this clearance report is to verify that this lead hazard control project was done according to the project specifications. This residential dwelling may still contain hazardous lead-based paint, soil-lead hazards, or dust-lead hazards in the rooms or exterior areas that were not included in the lead hazard control project.”

9. The name, address, and telephone number of each recognized laboratory conducting an analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(3) The following information on the renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR Part 35 for which clearance testing was performed:

1. The start and completion dates of the renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation.

2. The name and address of each firm or organization conducting the renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation and the name of each supervisor assigned.

3. A detailed written description of the renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation, including the methods used, locations of exterior surfaces, interior rooms, common areas, and components where the hazard reduction activity occurred.

4. If interim control of soil hazards was conducted, a detailed description of the location(s) of the interim controls and the method(s) used.

5. Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.

6. Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70.

7. The report will contain the statement set forth in 70.6(7) "c"(15).

- e. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor or a certified sampling technician will maintain a copy of the clearance testing information included in the lead abatement report specified in 70.6(6) "m" for no fewer than three years. A certified lead inspector/risk assessor, a certified elevated blood lead (EBL) inspector/risk assessor, or a certified sampling technician will maintain a copy of the clearance testing report specified in 70.6(8) "d" for no fewer than three years.

- f. Clearance testing will be performed by persons or entities independent of those performing lead abatement, renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation, unless the designated party uses qualified in-house employees to conduct clearance testing. An in-house employee will not conduct both lead abatement, renovation, interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation and the clearance examination for this work.

70.6(9) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct paint testing pursuant to 24 CFR Part 35 according to the following standards. Paint testing pursuant to 24 CFR Part 35 will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

- a. When conducting paint testing in a residential dwelling or child-occupied facility, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following procedures:

- (1) The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will test paint on each deteriorated paint surface and on each painted surface that will be disturbed or replaced. On windows, the window frame, interior windowsill, window sash, and window trough will each be tested.

- (2) Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If testing by laboratory analysis, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect paint samples using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use an X-ray fluorescence analyzer that has a performance characteristics sheet and will use the X-ray fluorescence analyzer according to the performance characteristics sheet.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the NIST 1.02 standard film or standards provided by the manufacturer for calibration of the X-ray fluorescence analyzer. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not state that any surface is free of lead-based paint unless the NIST 1.02 standard film is used for calibration.

3. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will take calibration readings consisting of an average of three readings at the beginning of the inspection.

4. If recommended by the performance characteristics sheet, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct substrate correction for all XRF readings less than 4.0 milligrams of lead per square centimeter. For each substrate that requires substrate correction, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will completely remove all paint from an area of two different testing combinations for that substrate. If possible, the areas chosen for substrate correction should have initial XRF readings of less than 2.5 milligrams of lead per square centimeter. For each testing combination, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will remove paint from an area that is at least as large as the XRF probe faceplate. On each of the two areas, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will place the NIST 1.02 standard film over the surface, and take three XRF readings with the XRF used to conduct the inspection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean for these six readings and will subtract 1.02 from this arithmetic mean to obtain the substrate correction value. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will then subtract the substrate correction value from each XRF reading for the substrate requiring substrate correction to obtain the corrected XRF reading. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not conduct substrate correction where recommended by the performance characteristics sheet, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that all of the readings are positive and will not state that a surface is free of lead-based paint.

5. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will classify each XRF reading that did not require substrate correction and each corrected XRF reading for XRF readings that required substrate correction as positive, negative, or inconclusive, according to the performance characteristics sheet for the XRF. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not discard XRF readings unless instructed to do so by the performance characteristics sheet or the operating instructions from the manufacturer. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor believes that a reading classified as positive is in error, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will collect a paint sample for laboratory analysis. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will change the positive classification to negative only if the results of the laboratory analysis indicate that the surface is not painted with lead-based paint. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume that all inconclusive readings are positive and classify them as such.

6. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will resolve inconclusive readings as defined by the performance characteristics sheet for the XRF by collecting paint samples for laboratory analysis. If the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor does not resolve inconclusive readings by laboratory analysis, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the inconclusive readings are positive.

b. If lead-based paint is identified through paint testing, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will conduct a visual inspection to determine the presence of lead-based paint hazards and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated.

c. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where paint testing is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the inspection, if different. A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of each written report for no less than three years. The report will include, at least:

- (1) A statement that the inspection was conducted to determine whether lead-based paint is present on deteriorated paint surfaces and on painted surfaces that will be disturbed or replaced;
- (2) Date of the testing;
- (3) Address of building;
- (4) Date of construction;
- (5) Apartment numbers (if applicable);
- (6) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- (7) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the paint testing;
- (8) Name and certification number of the certified firm(s) conducting the paint testing;
- (9) Name, address, and telephone number of each laboratory conducting an analysis of collected samples;
- (10) Each testing method and sampling procedure employed for paint analysis, including quality control data and, if used, the manufacturer, serial number, software, and operating mode of any XRF analyzer;
- (11) XRF readings taken for calibration and calculations to demonstrate that the XRF is properly calibrated;
- (12) Specific locations by room of each painted component tested for the presence of lead-based paint and the results for each component expressed in terms appropriate to the sampling method used;
- (13) A statement that all painted or finished components that were not tested will be assumed to contain lead-based paint;
- (14) A description of the location, type, and severity of identified lead-based paint hazards, including the classification of each tested surface as to whether it is a lead-based paint hazard, and any other potential lead hazards, including bare soil in the dripline of a home where lead-based paint is identified on exterior components or lead-based paint previously existed on exterior components, but has been removed, enclosed, or encapsulated;
- (15) A description of interim controls and lead abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure;
- (16) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;
- (17) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation found in 641—Chapter 70; and
- (18) The report will contain the statement set forth in 70.6(1) "a"(7) "19."

70.6(10) A certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor will conduct reevaluations according to the following standards. Reevaluations will be conducted only by a certified lead inspector/risk assessor or a certified elevated blood lead (EBL) inspector/risk assessor.

a. All available information regarding lead-based paint for the property being reevaluated will be reviewed, including but not limited to reports of any lead-based paint activities conducted in a residential dwelling, multifamily dwelling, or child-occupied facility.

b. A visual inspection of the property will be undertaken to locate the existence of deteriorated paint; bare soil; recommended lead abatement, interim controls, or standard treatments that were not implemented; and failed interim controls, standard treatments, encapsulation, or enclosure.

c. Deteriorated paint for which the lead content is unknown will be tested for the presence of lead.

d. Soil samples will be collected and analyzed from bare soil for which the lead content is unknown. Soil samples will be collected using the documented methodologies specified in guidance documents issued by the department and will be analyzed by a recognized laboratory to determine the level of lead.

e. If any lead-based paint hazards, recommended lead abatement, interim controls, or standard treatments that were not implemented, or failed interim controls, standard treatments, encapsulation, or enclosure is identified, then the reevaluation is failed. These conditions will be controlled through lead abatement or interim controls before the reevaluation can continue. Clearance testing will be conducted following control of the conditions through lead abatement or interim controls.

f. If there are no lead-based paint hazards present and all of the recommended lead abatement or interim controls were implemented and have not failed, then single-surface or composite dust samples will be collected. The reevaluation is passed if all of the dust samples taken are below the clearance level.

g. In residential dwellings, single-surface or composite dust samples will be collected from floors and interior windowsills in at least four rooms, hallways, or stairwells where at least one child under the age of six years is most likely to come in contact with dust.

h. In multifamily dwellings, single-surface or composite dust samples will also be collected from common areas where at least one child under the age of six years is likely to come in contact with dust.

i. In child-occupied facilities, single-surface or composite dust samples will be collected from the floor and interior windowsill in at least four rooms, hallways, or stairwells utilized by one or more children under the age of six years and in other common areas where the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor determines that at least one child under the age of six years is likely to come in contact with dust.

j. Dust samples will be collected by wipe samples using the documented methodologies specified in guidance documents issued by the department. The minimum area for a floor wipe sample will be 0.50 square feet or 72 square inches. The minimum area for a windowsill wipe sample and for a window trough wipe sample will be 0.25 square feet or 36 square inches. Dust samples will be analyzed by a recognized laboratory to determine the level of lead.

k. Paint will be tested using adequate quality control by X-ray fluorescence or by laboratory analysis using a recognized laboratory to determine the presence of lead-based paint on a surface. If tested by laboratory analysis, the paint will be sampled using the documented methodologies specified in guidance documents issued by the department. If testing by X-ray fluorescence, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use the following methodologies: paragraphs 70.6(9)“a”(2)“1” through “6” are restated as if fully set forth herein.

l. When conducting reevaluation in multifamily housing, a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor may sample each residential dwelling or choose residential dwellings for sampling by random selection, targeted selection, or worst case selection.

(1) If built before 1960 or if the date of construction is unknown, the multifamily housing will contain at least 20 similarly constructed and maintained residential dwellings in order to use random selection. If built from 1960 to 1977, the multifamily housing will contain at least ten similarly constructed and maintained residential dwellings in order to use random selection. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 1 to determine the number of residential dwellings to randomly select for testing.

(2) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use targeted selection. If using targeted selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily

housing has fewer than 5 similar dwellings, all residential dwellings will be tested. Residential dwellings chosen by targeted selection will meet as many of the following criteria as possible. If additional residential dwellings are needed to meet the minimum number specified in Table 2, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will select them randomly. If too many residential dwellings meet the criteria, residential dwellings will be eliminated randomly. Targeted selection criteria are as follows:

1. The residential dwelling has been cited with a housing or building code violation within the past year.

2. The property owner believes that the residential dwelling is in poor condition.

3. The residential dwelling contains two or more children between the ages of six months and six years. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will give preference to residential dwellings that house the largest number of children.

4. The residential dwelling serves as a child-occupied facility.

5. The residential dwelling has been prepared for reoccupancy within the past three months.

- (3) If the multifamily housing contains five or more similar residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may use worst case selection. If using worst case selection, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will use Table 2 to determine the number of residential dwellings to test. If the multifamily housing has fewer than five similar dwellings, all residential dwellings will be tested.

- (4) The following standards will be used to determine the extent of lead-based paint hazards throughout multifamily housing that is sampled by random selection, targeted selection, or worst case selection:

1. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will calculate the arithmetic mean of the dust-lead levels for carpeted floors, uncarpeted floors, interior windowsills, and window troughs. If the arithmetic mean is greater than or equal to the level defined as a dust-lead hazard for the component, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust-lead hazard has been identified on the component throughout the multifamily housing. If the arithmetic mean is less than the level defined as a dust-lead hazard for the component, but some of the individual components have dust-lead levels that are greater than or equal to the level defined as a dust-lead hazard, then the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will determine that a dust-lead hazard has been identified on the individual components and on all other similar components throughout the multifamily housing.

2. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will evaluate the results of paint sampling by component and location. If all components at a given location are determined to be painted with lead-based paint or are determined not to be painted with lead-based paint, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor may assume this condition is true for all similar residential dwellings. The certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will not assume that the multifamily housing is free of lead-based paint. If a component at a given location is found to be painted with lead-based paint in some residential dwellings and not painted with lead-based paint in other residential dwellings, the certified lead inspector/risk assessor or elevated blood lead (EBL) inspector/risk assessor will assume that the component is a lead-based paint hazard in all similar residential dwellings.

- m.* If reevaluation is conducted, the first reevaluation will be conducted no later than two years from completion of lead abatement, interim controls, or standard treatments. Subsequent reevaluation will be conducted at intervals of two years, plus or minus 60 days. To be exempt from additional reevaluation, a residential dwelling or child-occupied facility will have at least two consecutive passing reevaluations conducted at such two-year intervals. If, however, a reevaluation fails, at least two more consecutive reevaluations conducted at such two-year intervals will be conducted.

- n.* A certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will prepare a written report for each residential dwelling or child-occupied facility where a

reevaluation is conducted. No later than three weeks after the receipt of laboratory results, the certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will send a copy of the report to the property owner and to the person requesting the reevaluation, if different. A certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will maintain a copy of the report for no less than three years. The report will include, at least:

- (1) Date of each reevaluation;
- (2) Address of building;
- (3) Date of construction;
- (4) Apartment numbers (if applicable);
- (5) The name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- (6) Name, signature, and certification number of each certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor conducting the reevaluation;
- (7) Name and certification number of the certified firm(s) conducting the reevaluation;
- (8) All of the information gathered for the review as outlined in 70.6(10) “a”;
- (9) Results of the visual inspection including details of any newly identified lead-based paint hazards, the status of past lead hazard control measures, and repair options for any lead-based paint hazards identified during the reevaluation;
- (10) An indication of whether or not the property passed or failed the reevaluation;
- (11) An indication of when the next reevaluation, if any, should occur;
- (12) The results of any environmental samples taken, including all XRF readings, all laboratory analyses and clearance testing results, if necessary;
- (13) Name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, including the identification number for each such laboratory recognized by EPA under Section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b));
- (14) Information regarding the owner’s obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745;
- (15) Information regarding Iowa’s prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa’s regulations for renovation found in 641—Chapter 70; and
- (16) The report will contain the statement set forth in 70.6(7) “c”(15).

70.6(11) All renovations performed in target housing and child-occupied facilities, except for emergency renovations and minor repair and maintenance activities, will be performed according to the work practice standards in 70.6(11). Renovation activities conducted in housing or on surfaces determined to be free of lead-based paint by a certified lead inspector/risk assessor or certified elevated blood lead (EBL) inspector/risk assessor will be exempt from all work practice standards except recordkeeping. All renovations will be performed by a certified firm under the supervision of a certified lead abatement contractor or a certified lead abatement worker or will be performed by a certified lead-safe renovator in accordance with the requirements below.

a. A firm will assign at least one certified lead abatement contractor, a certified lead abatement worker, or a certified lead-safe renovator to each individual renovation project. The certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator assigned to each individual renovation project will ensure the following:

- (1) A certified lead abatement contractor, a certified lead abatement worker, or a certified lead-safe renovator will be on site during all worksite preparation and during the cleanup of work areas. At all other times when renovation is being conducted, a certified lead abatement contractor, a certified lead abatement worker, or a certified lead-safe renovator will be on site or available by telephone or answering service and be able to be present at the worksite in no more than two hours.

- (2) Signs are posted and readable. All signs will be posted before the renovation begins and will remain in place until the postrenovation cleaning verification has been completed.

1. To the extent practicable, all signage will be posted in the occupants’ primary language.

2. The signs will clearly define the work area.
3. The signs will warn occupants and other persons not involved with the renovation activity to remain outside the work area.
4. The signs will be posted at the entrance(s) to all work areas.
- (3) The work area will be effectively contained before the renovation is begun. To be effective, containment will:
 1. Isolate the work area so that no dust or debris leaves the work area while the renovation is being performed.
 2. Be monitored and maintained so that any plastic or other impermeable materials are not torn or displaced.
 3. Be installed in such a manner that it does not interfere with occupant and worker egress in an emergency.
- (4) For interior renovations, containment will include:
 1. The removal or covering of all objects from the work area. Objects that are not removed from the work area will be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.
 2. Closing and covering all duct openings in the work area. Ducts will be covered with plastic sheeting or other impermeable material that is taped down.
 3. Closing windows and doors in the work area. Doors will be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area will be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.
 4. Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of the surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater.
 5. Ensuring that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving or being removed from the work area.
- (5) For exterior renovations, containment will include:
 1. Closing all doors and windows within 20 feet of the renovation. On multistory buildings, all doors and windows within 20 feet of the renovation on the same story as the renovation will be closed, and all doors and windows on all stories below the renovation that are the same horizontal distance from the renovation will be closed.
 2. Ensuring that doors within the work areas that will be used while the renovation is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.
 3. Covering the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground cover. Exterior ground cover will include anchors or weights to ensure the covering remains effective even during weather conditions such as high wind.
 4. Vertical containment. In certain situations, such as where other buildings are in close proximity to the work area, when conditions are windy, or where the work area abuts a property line, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will erect a system of vertical containment designed to prevent dust and debris from migrating to adjacent property or contaminating the ground, other buildings, or any object beyond the work area.
- (6) Prohibited practices are not used during the renovation. Prohibited practices include:
 1. Open-flame burning or torching of paint.
 2. Machine sanding or grinding or abrasive blasting or sandblasting of paint unless used with high-efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.
 3. Uncontained water blasting of paint.

4. Dry scraping or dry sanding of paint except in conjunction with the use of a heat gun or around electrical outlets.

5. Operating a heat gun at a temperature at or above 1,100 degrees Fahrenheit.

(7) All workers who are not certified lead abatement contractors, certified lead abatement workers, or certified lead-safe renovators must have on-the-job training as required by 70.6(11) "d." *However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR 35.1340.*

(8) If desired, perform all testing with recognized test kits in accordance with 70.6(11) "e."

(9) Perform the postrenovation cleaning verification as outlined in 70.6(11) "b."

(10) All waste generated during renovation activities is contained to prevent the release of dust and debris before the waste is removed from the work area for storage or disposal. Any chutes used to remove waste from the work area will be covered.

1. At the conclusion of each workday and at the conclusion of the renovation, waste that has been collected from renovation activities will be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

2. All waste from renovation activities will be contained during transportation so that no dust or debris is released.

(11) The work area will be cleaned so that no dust, debris, or residue remains after the renovation. Cleaning will include:

1. The collection of all paint chips and debris and, without dispersing the paint chips and debris, the sealing of the materials in heavy-duty bags.

2. The removal of the protective sheeting used as required in this subrule. The sheeting will be misted, then the sheeting will be folded dirty side inward. All sheeting will be taped shut or otherwise sealed inside heavy-duty bags. Sheeting used to separate work areas from non-work areas will remain in place until after the cleaning and removal of other sheeting. All sheeting will be disposed of as waste.

3. For interior renovations, all objects and surfaces in the work area and within two feet of the work area will be cleaned from high to low in the following manner:

- Walls will either be vacuumed with a HEPA vacuum or wiped with a wet cloth, beginning at the ceiling and working toward the floor.

- All remaining surfaces including objects and fixtures will be thoroughly vacuumed with a HEPA vacuum. For carpeted floors and rugs, the HEPA vacuum must be equipped with a beater bar.

- All remaining surfaces, except for carpeted or upholstered surfaces, will also be wiped with a damp cloth. Uncarpeted floors will be thoroughly mopped using a method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

b. Postrenovation cleaning verification. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will use the following procedure for conducting postrenovation cleaning verification. In lieu of postrenovation cleaning verification, clearance testing as outlined in 70.6(8) can be performed. If the work is done in response to an elevated blood lead (EBL) inspection, clearance testing will be performed by a certified elevated blood lead (EBL) inspector/risk assessor in lieu of postrenovation cleaning verification. Warning signs may be removed after all of the work areas in a renovation project have been adequately cleaned and verified or passed clearance testing.

(1) For interior renovations, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will perform a visual inspection to determine whether dust, debris, or residue is still present. If dust, debris, or residue is still present, these conditions will be removed by recleaning, and another visual inspection will be performed. Following a successful visual inspection, a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will:

1. Verify that each windowsill and window trough in the work area has been adequately cleaned, using the following procedure:

- Wipe the windowsill and window trough with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

- If the cloth does not match and is darker than the cleaning verification card, reclean the windowsill or window trough as directed in 70.6(11) “a”(11). Then wipe the windowsill or window trough again, using a new cloth or the same cloth folded in such a way that an unused surface is exposed. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

- If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.

- After waiting for the windowsill or window trough to dry, wipe the windowsill or window trough with a dry disposable cleaning cloth. After this wipe, that windowsill or window trough has been adequately cleaned.

2. Verify that uncarpeted floors and countertops in the work area have been adequately cleaned, using the following procedure. If the surface within the work area is greater than 40 square feet, the surface within the work area will be divided into roughly equal sections that are each less than 40 square feet.

- Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors will be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth will remain damp at all times while it is being used to wipe the surface for postrenovation cleaning verification. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches or is lighter than the cleaning verification card, the surface has been adequately cleaned.

- If the cloth does not match and is darker than the cleaning verification card, reclean the surface as in 70.6(11) “a”(11). Then wipe the floor or countertop again, using a new cloth. If the cloth matches or is lighter than the cleaning verification card, that surface has been adequately cleaned.

- If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.

- After waiting for the surface to dry, wipe each section of the surface that has not yet achieved the postrenovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that surface has been adequately cleaned.

(2) For exterior renovations, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will perform a visual inspection to determine whether dust, debris, or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris, or residue is present, these conditions must be eliminated and another visual inspection will be performed. When the area passes the visual inspection, the exterior has been adequately cleaned.

(3) A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will only use cleaning verification cards that are approved by the U.S. EPA and have not expired.

c. Clearance testing. Postrenovation cleaning verification is not required if the contract between the renovation firm and the person contracting for the renovation or another federal, state, territorial, tribal, or local law or regulation requires the renovation firm to perform clearance testing at the conclusion of a renovation covered by this chapter.

(1) The dust samples will be collected by a certified lead inspector/risk assessor, certified elevated blood lead (EBL) inspector/risk assessor, or certified sampling technician. If the work is done in response to an elevated blood lead (EBL) inspection, the dust samples will be collected by a certified elevated blood lead (EBL) inspector/risk assessor.

(2) The firm conducting the renovation is required to reclean the work area until the dust clearance sample results are below the clearance standards in 70.6(8).

d. On-the-job training. The certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator assigned to the renovation project will ensure that each noncertified individual conducting renovation activities has been or is currently being trained on how to safely conduct renovation activities. However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR Part 35.

(1) All on-the-job training will be conducted by a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator.

(2) Each noncertified individual will be trained by a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator who is employed by the same certified firm. On-the-job training does not meet the requirement for work conducted pursuant to 24 CFR Part 35.

(3) On-the-job training will be specific for the type of work the noncertified individual is performing and must include at least the following topics:

1. An overview of the requirements described in this chapter.
2. An overview of the health effects of lead poisoning.
3. Methods to prevent taking lead dust home from the worksite.
4. How and why to properly set up a work area for lead-safe renovations.
5. How and where to properly post signage.
6. Personal protection.
7. How and why to properly set up containment.
8. How and why to minimize dust and debris.
9. Proper cleaning techniques and timelines for cleaning in renovation activities.
10. How to properly handle and control waste generated from renovation activities.
11. An overview of the postrenovation cleaning verification and clearance testing.
12. An overview of the prerenovation notification requirements found in 641—Chapter 69.
13. Prohibited work practices.

e. Recognized test kits. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator may use recognized test kits to determine whether surfaces to be affected by renovation activities are painted with lead-based paint. The result from each individual test performed applies only to the individual surface tested. Surfaces that are determined by proper use of a recognized test kit to be free of lead-based paint are exempt from the requirements of 70.6(11)“*a*” through “*d*.” Results obtained from recognized test kits are only valid if the testing was performed according to the manufacturer’s directions. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will not discard a valid result from a recognized test kit.

f. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will complete a written report when conducting a renovation. The report will include the results of any testing performed with a recognized test kit, information regarding the work practices used in the renovation and, if applicable, a copy of the clearance testing report. When the final invoice for the renovation is delivered or within 30 days after the renovation activity is complete, whichever is earlier, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will send a copy of the report to the owner of the building. If the renovation took place within a residential dwelling, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will send a copy of the report to an adult occupant of the residential dwelling and to the person requesting the renovation, if different from the owner. If the renovation took place within a child-occupied facility, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will send a copy of the report to an adult representative of the child-occupied facility and to the person requesting the renovation, if different from the owner. If the renovation took place within common areas of multifamily target housing, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will post in areas where it is likely to be seen by the occupants of all of the affected units the report required by this paragraph or instructions on how interested occupants can obtain a copy of this report at no charge. If the renovation took place within a child-occupied facility, the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will post in areas where it is likely to be seen by the parents or guardians of children frequenting the child-occupied facility the report required by this paragraph or instructions on how interested parents or guardians of children frequenting the child-occupied facility can obtain a copy of this report at no charge. A certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator will maintain a copy of the report for no less than three years. The report will include, at least:

- (1) The date(s) of the renovation.
 - (2) Address of the building, including apartment numbers, if applicable.
 - (3) The name, address, and telephone number of the owner(s) of the address(es) where the renovation took place.
 - (4) The name, address, signature, certification number, and telephone number of the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator who performed the renovation.
 - (5) The name and certification number of the certified firm performing the renovation.
 - (6) If testing was performed with a recognized test kit, the location of each test. The location will be specific to the room and component.
 - (7) The results of testing. The results will be classified as either positive for lead-based paint or negative for lead-based paint.
 - (8) The name and manufacturer of the recognized test kit(s) used, the expiration date, and the EPA approval number.
 - (9) The work practices used in the renovation, including the location(s) where each work practice was used. The location will be specific to the room and component.
 - (10) If applicable, a copy of the clearance report.
 - (11) Information regarding the owner's obligations to disclose known lead-based paint and lead-based paint hazards upon sale or lease of residential property as required by Subpart H of 24 CFR Part 35 and Subpart I of 40 CFR Part 745.
 - (12) Information regarding Iowa's prerenovation notification requirements found in 641—Chapter 69; and information regarding Iowa's regulations for renovation, remodeling and repainting found in 641—Chapter 70.
- g. Recordkeeping. Records will be kept for each renovation project that involves target housing or child-occupied facilities. The records for each renovation will include:
- (1) The name and certification number of the certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator responsible for the renovation.
 - (2) The name and certification number of the certified firm that performed the renovation.
 - (3) The address(es) of the property where the renovation activity was performed.
 - (4) The name, address, and telephone number of the property owner where the renovation activity was performed.
 - (5) Renovations considered emergency pursuant to 641—70.2(10A) will contain a description of the circumstances explaining why the renovations were immediately required and which work practice standards were not followed as a result.
 - (6) Any reports or documentation completed by a certified lead professional concerning the renovation project, including documentation from certified lead inspector/risk assessors or certified elevated blood lead (EBL) lead inspector/risk assessors regarding housing, components, or surfaces that have been determined to be free of lead-based paint and clearance reports from clearance testing performed in lieu of postrenovation cleaning verification.
 - (7) Documentation that each noncertified individual working on the renovation project had, or was receiving, the appropriate on-the-job training outlined in 70.6(11)“d.” The documentation will include the names of all of the noncertified individuals who worked on the renovation. However, on-the-job training does not meet the training requirement for work conducted pursuant to 24 CFR 35.1340.
 - (8) Documentation that the certified lead-safe renovator followed the work practices for renovation activities outlined in 70.6(11). This will include documentation that the following work practices were followed:
 1. Signs were posted at the entrance to the work area.
 2. The work area was contained.
 3. All objects in the work area were covered or removed.
 4. All HVAC ducts in the work area were closed and covered.
 5. All windows in the work area were closed, and all windows within 20 feet of exterior work areas were closed.

6. All doors not used to enter the work area were closed and sealed, and all doors within 20 feet of exterior work areas were closed and sealed.

7. All doors used as an entrance to the work area had containment in place to prevent the spread of dust and debris.

8. All floors in the work area were covered for a sufficient distance to contain the dust and debris from the renovation.

9. Adequate ground cover was in place to contain the dust and debris for exterior renovations.

10. Adequate vertical containment was in place to contain the dust and debris for exterior renovations.

11. All waste generated during the renovations was contained throughout the renovation and the transportation to disposal.

(9) Documentation that the renovation work area was cleaned and passed the postrenovation cleaning verification procedures outlined in 70.6(11)“b,” including the expiration date of the cleaning verification cards used.

(10) Documentation regarding the use of any recognized test kits outlined in 70.6(11)“e.” The documentation will include a copy of the written report required by 70.6(11)“f.”

h. Emergency renovations.

(1) Renovation activities that are deemed to be an emergency are exempt from the certification requirements and all of the work practice standards, except for the cleaning requirements, postrenovation cleaning verification, and the written report required by 70.6(11)“f.” All postrenovation cleaning will take place under the direction of a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator. The postrenovation cleaning verification after an emergency renovation will be performed by a certified lead abatement contractor, certified lead abatement worker, or certified lead-safe renovator.

(2) Emergency renovations that are required as a result of an elevated blood lead (EBL) inspection are initially exempt from the certification requirements. The work practice standards found in 70.6(11)“a” will apply. All individuals who perform emergency renovations in response to an elevated blood lead (EBL) inspection are required to obtain certification as a lead-safe renovator, lead abatement contractor, or lead abatement worker within six months from the date the elevated blood lead (EBL) inspection report was issued. Renovations and interim controls performed in response to an elevated blood lead (EBL) inspection are required to pass clearance testing that is performed by a certified elevated blood lead (EBL) inspector/risk assessor.

70.6(12) A person may be certified as a lead inspector/risk assessor, sampling technician, or elevated blood lead (EBL) inspector/risk assessor and as a lead abatement contractor or lead abatement worker. Except as specified by 70.6(6)“k” and 70.6(8)“f,” a person who is certified both as a lead inspector/risk assessor, sampling technician, or elevated blood lead (EBL) inspector/risk assessor and as a lead abatement contractor or lead abatement worker will not provide both lead inspection or visual risk assessment and lead abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.

70.6(13) Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 70.6(1) through 70.6(6) and 70.6(9) will be collected by persons certified as a lead inspector/risk assessor or an elevated blood lead (EBL) inspector/risk assessor. Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 70.6(8) for clearance testing following lead abatement will be collected by persons certified as a lead inspector/risk assessor or an elevated blood lead (EBL) inspector/risk assessor. Any dust or soil samples collected pursuant to the work practice standards contained in 70.6(8) for clearance testing after renovation or interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, and rehabilitation pursuant to 24 CFR Part 35 will be collected only by certified sampling technicians, certified lead inspector/risk assessors, or certified elevated blood lead (EBL) inspector/risk assessors. Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 641—70.6(10A) will be analyzed by a recognized laboratory.

70.6(14) Composite dust sampling will be conducted only in the situations specified in 70.6(4) through 70.6(6) and 70.6(8). If composite sampling is conducted, it will meet the following requirements:

- a. Composite dust samples will consist of at least two subsamples.
- b. Every component that is being tested will be included in the sampling.
- c. Composite dust samples will not consist of subsamples from more than one type of component.
- d. The results of composite dust samples will be evaluated by comparing the residual lead level as determined by the laboratory analysis from each composite dust sample with applicable single-surface dust-lead hazard or clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample.

641—70.7(10A) Firms. All firms that perform or offer to perform lead-based paint activities must be certified by the department. Firms will employ only appropriately certified employees to conduct lead-based paint activities, and the firm and its employees will follow the work practice standards in 641—70.6(10A) for conducting lead-based paint activities. A firm must employ at least one certified individual in order to receive or maintain firm certification.

70.7(1) A firm wishing to be certified will apply to the department electronically in a format specified by the department or may apply using a paper application supplied by the department. The firm will submit:

- a. A completed application.
- b. Documentation that the firm will employ only appropriately certified lead professionals to perform lead-based paint activities. In addition, the firm will document that the agency and its employees or contractors will follow the work practice standards in 641—70.6(10A) for conducting lead-based paint activities.
- c. The certified firm will maintain all records required by 641—70.6(10A), with the exception of elevated blood lead (EBL) inspection reports, for three years. Certified firms that are also certified as elevated blood lead (EBL) inspection agencies will maintain elevated blood lead (EBL) inspection reports for at least ten years.

70.7(2) Firms must be recertified every three years. To be recertified, the firm will submit the following:

- a. A completed application.
- b. Documentation that the firm will employ only appropriately certified lead professionals to perform lead-based paint activities. In addition, the firm will document that the firm and its employees or contractors will follow the work practice standards in 641—70.6(10A) for conducting lead-based paint activities.

641—70.8 Reserved.

641—70.9(10A) Compliance inspections.

70.9(1) The department may enter premises or facilities where violations of the provisions regarding lead-based paint activities may occur for the purpose of conducting compliance inspections.

70.9(2) The department may enter premises or facilities where training programs conduct business.

70.9(3) The department may take samples and review records as part of the lead-based paint activities compliance inspection process.

70.9(4) The department may review all reports involving lead-based paint activities.

70.9(5) The department may issue subpoenas pursuant to Iowa Code chapter 10A for the purposes of determining compliance.

641—70.10(10A) Denial, suspension, or revocation of certification; denial, suspension, revocation, or modification of course approval; and imposition of penalties.

70.10(1) When the department finds that the applicant, certified lead professional, or certified firm has committed any of the following acts, the department may deny an application for certification, may suspend or revoke a certification, may prohibit specific work practices, may require a project conducted

by persons or firms that are not certified or a project where prohibited work practices are being used to be halted, may require the cleanup of lead hazards created by the use of prohibited work practices, may impose a civil penalty, may place on probation, may require additional education, may require reexamination of the state certification examination, may issue a warning, or may impose other sanctions allowed by law as may be appropriate.

- a.* Failure or refusal to comply with any requirements of this chapter.
- b.* Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by 641—70.3(10A) through 641—70.7(10A).
- c.* Failure or refusal to permit entry or inspection as described in 70.9(1) through 70.9(3).
- d.* Obtaining or attempting to obtain certification through fraudulent representation.
- e.* Failure to obtain certification from the department and performing work requiring certification.
- f.* Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.
- g.* Conducting any part of a lead-based paint activity that requires certification without being certified or with a certification that has lapsed.
- h.* Obtained documentation of training through fraudulent means.
- i.* Gained admission to an accredited training program through misrepresentation of admission requirements.
- j.* Obtained certification through misrepresentation of certification requirements or related documents pertaining to education, training, professional registration, or experience.
- k.* Performed work requiring certification at a job site without having proof of current certification.
- l.* Permitted the duplication or use of the individual's or firm's own certificate by another.
- m.* Failed to follow the standards of conduct required by 641—70.6(10A).
- n.* Failed to comply with federal, state, or local lead-based paint statutes and regulations, including the requirements of this chapter.
- o.* Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of lead professional activities or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- p.* Used untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by a lead professional making information or intention known to the public that is false, deceptive, misleading, or promoted through fraud or misrepresentation.
- q.* Falsified reports and records required by this chapter.
- r.* Accepted any fee by fraud or misrepresentation.
- s.* Negligence by the firm or individual in the practice of lead professional activities. This includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice, or conditions that impair the ability of the firm or individual to safely and skillfully practice the profession.
- t.* Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court will not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board.
- u.* Failed to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- v.* Representation by a firm or individual that the firm or individual is certified when the certification has been suspended or revoked or has not been renewed.
- w.* Failed to respond within 20 days of receipt of communication from the department that was sent by registered or certified mail.
- x.* Engaged in any conduct that subverts or attempts to subvert a department investigation.
- y.* Failed to comply with a subpoena issued by the department or failure to cooperate with a department investigation.

- z. Failed to pay costs assessed in any disciplinary action.
- aa. Been convicted of a felony or misdemeanor related to lead professional activities or the conviction of any felony or misdemeanor that would affect the ability of the firm or individual to perform lead professional activities. A copy of the record of conviction or plea of guilty is conclusive evidence.
 - ab. Unethical conduct. This includes, but is not limited to, the following:
 - (1) Verbally or physically abusing a client or coworker.
 - (2) Improper sexual conduct with or making suggestive, lewd, lascivious, or improper remarks or advances to a client or coworker.
 - (3) Engaging in a professional conflict of interest.
 - (4) Mental or physical inability reasonably related to and adversely affecting the ability of the firm or individual to practice in a safe and competent manner.
 - (5) Being adjudged mentally incompetent by a court of competent jurisdiction.
 - (6) Habitual intoxication or addiction to drugs.
 - 1. The inability of a lead professional to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
 - 2. The excessive use of drugs that may impair a lead professional's ability to practice with reasonable skill or safety.
 - 3. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
 - (7) Registration on a state sex offender registry.
- 70.10(2)** The department may deny, suspend, revoke, or modify the approval for a course, or may place on probation, or impose other sanctions allowed by law as may be appropriate, or may impose a civil penalty or impose other sanctions allowed by law as may be appropriate when it finds that the training program, training manager, or other person with supervisory authority over the course has committed any of the following acts:
 - a. Misrepresented the contents of a training course to the department or to the student population.
 - b. Failed to submit required information or notifications in a timely manner.
 - c. Failed to maintain required records.
 - d. Falsified approval records, instructor qualifications, or other information or documentation related to course approval.
 - e. Failed to comply with the training standards and requirements in 641—70.4(10A).
 - f. Made false or misleading statements to the department in its application for approval or reapproval that the department relied upon in approving the application.
 - g. Failed to comply with federal, state, or local lead-based paint statutes and regulations, including the requirements of this chapter.
 - h. Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of conducting a training program or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
 - i. Used untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by a training program making information or intention known to the public that is false, deceptive, misleading, or promoted through fraud or misrepresentation.
 - j. Falsified reports and records required by this chapter.
 - k. Accepted any fee by fraud or misrepresentation.
 - l. Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court will not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board.
 - m. Failed to comply with the terms of a department order or the terms of a settlement agreement or consent order.

n. Failed to respond within 20 days of receipt of communication from the department that was sent by registered or certified mail.

o. Engaged in any conduct that subverts or attempts to subvert a department investigation.

p. Failed to comply with a subpoena issued by the department or failure to cooperate with a department investigation.

q. Failed to pay costs assessed in any disciplinary action.

70.10(3) Reinstatement.

a. Any individual, training program, or firm that has been revoked, denied, or suspended may apply to the department in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the certification was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

70.10(4) Complaints and other requests for action under this rule. Complaints regarding a certified lead professional, a certified elevated blood lead (EBL) inspection agency, a certified firm, or an approved course may be submitted to the department. The complainant should provide:

a. The name of the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm and the specific details of the action(s) by the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm that did not comply with the rules; or

b. The name of the lead professional or firm that conducted lead professional activities without the appropriate certification or approval as required by the rules; or

c. The name of the sponsoring person or organization of an approved course and the specific way(s) that an approved course did not comply with the rules; or

d. The name of the sponsoring person or organization that provided a course without the approval required by these rules.

70.10(5) Civil penalties.

a. Before instituting any proceeding to impose a civil penalty under Iowa Code section 10A.902, the department will serve a written notice of violation upon the person charged. The notice of violation will specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged and will identify specifically the particular provision or provisions of the law, rule, regulation, certification, approval, or cease and desist order involved in the alleged violation and will state the amount of each proposed penalty. The notice of violation will also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation or showing extenuating circumstances. The notice of violation will advise the person charged that upon failure to pay a civil penalty subsequently determined by the department, if any, unless compromised, remitted, or mitigated, the fee may be collected by civil action.

b. Within 20 days of the date of a notice of violation or other time specified in the notice, the person charged may either pay the penalty in the amount proposed or answer the notice of violation or request a contested case hearing. The answer to the notice of violation shall state any facts, explanations, and arguments denying the charges of violation, or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty.

c. If the person charged with violation fails to answer within the time specified in 70.10(5) “*b.*,” an order may be issued imposing the civil penalty in the amount set forth in the notice of violation described in 70.10(5) “*a.*” If the person charged with violation files an answer to the notice of violation, the department, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within 20 days of the date of the order or other time specified in the order, request a contested case hearing. If the person charged

with violation timely requests a contested case hearing, it will be initiated and held in accordance with 481—Chapters 9 and 10.

70.10(6) Public notification.

a. The public will be notified of the suspension, revocation, modification, or reinstatement of course approval through appropriate mechanisms.

b. The department will maintain a list of courses for which the approval has been suspended, revoked, modified, or reinstated.

c. The public will be notified of the suspension or revocation of the certification of a lead professional or firm.

d. The department will maintain a list of lead professionals and firms for which certification has been suspended or revoked.

641—70.11(10A) Waivers. Rules in this chapter are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

641—70.12(10A) References to federal law. Unless otherwise specified, all references in this chapter to the United States Code or to the Code of Federal Regulations are to those provisions in effect on July 1, 2024.

These rules are intended to implement Iowa Code sections 10A.902, 272C.4 and 272C.12.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8909C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to general rules for migratory labor camps

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 81, “General Rules for Migratory Labor Camps,” 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 138.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 138 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 81. This rulemaking implements Iowa Code section 138.18 in accordance with the goals and directives of Executive Order 10. Iowa Code section 138.18 requires that the Department adopt rules that are necessary to carry out the purposes and provisions of Iowa Code chapter 138 subject to the requirements of Iowa Code chapter 17A.

This rulemaking implements the aforementioned Iowa Code sections by setting forth standards for shelters in migratory labor camps. The rules set forth requirements for water supply and waste disposal. The rules address bathing facilities and dining facilities, if any. The rules ensure that the camps comply with safety standards in case of fire. The rules further provide for inspection of the camps and registration of occupants.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8656C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

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 Department on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81
GENERAL RULES FOR MIGRATORY LABOR CAMPS

641—81.1(138) Shelters.

81.1(1) Heating season. The season requiring artificial heating as provided in Iowa Code section 138.13 is designated as the period between September 15 and June 1.

81.1(2) Minimum floor space requirements. The following floor space requirements shall be provided:

- a.* At least 50 square feet per occupant for sleeping purposes only in family units and dormitory accommodations.
- b.* At least 40 square feet per occupant for sleeping purposes only in accommodations using double bunk beds.

81.1(3) Inspection. The migrant shelter facilities shall be made available for inspection by the department at any reasonable time.

81.1(4) Register. A register of all occupants shall be maintained and provided to the department upon request.

81.1(5) Separate rooms. Housing used for families with one or more children six years of age or older shall have a separate room or partition made of rigid materials and installed to provide a reasonably private sleeping area for the husband and wife.

81.1(6) Storage. Arrangements for hanging clothing and storing personal effects for each person or family will be provided.

641—81.2(138) Water supply.

81.2(1) General. The following standards apply to the water supply:

- a. The water supply will be of a safe bacterial and chemical quality.
- b. Where a public water supply is available, such water will be used in the camp. If a private water source under pressure is provided, the water system will be capable of delivering at least 35 gallons per person per day to the camp site.
- c. Cistern supplies consisting of roof or other surface runoff water will not be used for drinking or culinary purposes.
- d. The adequacy of a well as a source of water for drinking or culinary purposes will be determined by inspection and bacteriological examination. Defects found by inspection or contaminated samples will be sufficient grounds for requiring repair, chlorination or condemnation of the well.
- e. Water containing 45 or more parts per million of nitrates will not be used for drinking or preparation of formula for infants under one year of age. When the supply contains nitrates in the quantity above, water for infant feeding will be obtained from another source that has been tested and found to be bacterially satisfactory and contains less than 45 parts per million of nitrates. A water supply containing 45 or more parts per million of nitrates will be placarded or posted stating the water will not be used for infant feeding.
- f. Hand-pump bases will be of the solid one-piece type bolted, including suitable gaskets, secured to the well casing by thread or weld connection. Handpumps secured to the platform by bolts cast in the concrete will be provided with a rubber or neoprene gasket between the pump base and the platform to ensure a watertight joint.
- g. The pump head will be of a type designed to prevent external water or other contaminating material from entering the water chamber.

h. The pump spout will be of the closed, downward-directed type.

81.2(2) Existing pump pits. Existing pump pits may be approved if the construction conforms to the following minimum standards:

- a. Walls, floor and top of pit are of watertight concrete or masonry construction or equivalent. The well casing extends at least 6 inches above the pit floor.
- b. A positive seal is provided for the annular opening between the casing wall and the drop pipe.
- c. A positive drain is provided by either a watertight sump and automatic sump pump discharging with at least a 6-inch free fall above the ground surface or an independent drain line discharging to the ground surface above any possible flood level. Pit drains discharging to any other drain or sewer are prohibited.

81.2(3) Water supply systems. The water supply system shall be installed so as to prevent backflow of contaminated water from appliances, fixtures, drains and sewers and have no cross-connections with any nonpotable supply or any other water supply that does not comply with these rules.

81.2(4) Water tanks. All water to be hauled for a camp will be obtained from an approved source. All equipment used for hauling or storage of potable water will be thoroughly cleaned and disinfected with a solution containing at least 200 parts per million of chlorine immediately before use. No equipment, tanks or reservoirs used for hauling or storing potable water can be used for any other purpose.

641—81.3(138) Waste disposal.

81.3(1) *Solid waste disposal.* Solid waste shall be disposed of in a sanitary disposal project pursuant to Iowa Code chapter 455B, or, if disposed of on the premises, buried so as to create no health hazard or nuisance.

81.3(2) *Liquid waste.* Liquid waste shall be disposed of as follows:

- a.* Existing wastewater disposal systems located and constructed so as not to create a nuisance or condition of pollution.
- b.* Water-carriage toilets discharged to a septic tank and solid absorption system or other type of disposal system located, designed and constructed in accordance with the specifications set forth in 567—Chapter 69.
- c.* A leaching pit or other type disposal system provided to receive the wastes from sinks, laundries, showers and tubs when no septic tank and absorption system is available located and constructed in accordance with the specifications set forth in 567—Chapter 69.

641—81.4(138) Bathing facilities.

81.4(1) Showers shall be supplied with hot and cold water under pressure and be sufficiently enclosed to provide privacy for the user. An adjacent, enclosed dry area will be provided for dressing. No duckboards, mats or other such accessories will be permitted.

81.4(2) Automatic water-heating equipment, or storage tanks with hand-fired heating coils, shall be equipped with combination pressure and temperature relief valves or separate pressure and temperature relief valves, located in the top one-eighth or not more than three inches above the top of the tank served. Pressure relief valves may be located adjacent to the tank. Gas-fired or other combustion-type water heaters shall be vented to the outside atmosphere.

641—81.5(138) Central dining facilities. When central dining facilities are provided by a concessionaire, operator or the manager of a camp, the size of the kitchen and dining hall will be commensurate with the capacity of the housing and separate from the sleeping quarters.

641—81.6(138) Safety and fire.

81.6(1) *Fire exits.* Fire exits shall consist of:

- a.* Shelters of one-story construction housing less than ten persons: two means of escape, one of which may be a readily accessible window with an openable space of at least 24 by 24 inches.
- b.* Sleeping quarters designed for ten or more persons, central dining facilities and common assembly rooms: at least two doors remotely separated so as to provide alternate means of escape.
- c.* Floors, above the first floor, used for sleeping quarters or common assembly rooms: a stairway and a permanent affixed exterior ladder or a second stairway.

81.6(2) *Shelter spacing.* There shall be at least ten feet of space in all directions between shelters. These rules are intended to implement Iowa Code section 138.18.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8971C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to state mortality review committee

The Department of Health and Human services hereby rescinds Chapter 90, “Iowa Child Death Review Team,” and adopts a new Chapter 90, “State Mortality Review Committee,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 135.43, 135.112 and 144.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

2024 Iowa Acts, Senate File 2385, created the State Mortality Review Committee. The purpose of the State Mortality Review Committee is to aid in the reduction of preventable deaths by promoting communication, discussion, cooperation, and the exchange of ideas and information, and by making recommendations for changes in policy and practice to improve community interventions, and to determine whether the Department and others involved responded appropriately. This chapter is replacing the chapters previously titled “Iowa Child Death Review Team,” “Iowa Domestic Abuse Death Review Team,” and “Maternal Mortality Review Committee.”

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8569C**. A public hearing was held on the following date(s):

- January 16, 2025
- January 21, 2025

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 Department on January 31, 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, pursuant to 441—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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90
STATE MORTALITY REVIEW COMMITTEE

641—90.1(135) Definitions.

“*Child abuse assessment*” means an assessment performed in accordance with Iowa Code section 232.71B.

“*Child fatality*” means the death of a child under the age of 18.

“*Committee*” means the state mortality review committee.

“*Maternal death*” means any death occurring while a woman is pregnant or within one year of the end of the pregnancy from any cause. This includes deaths resulting from abortions, ectopic pregnancies and all deaths during pregnancy, childbirth, puerperium or deaths from complications of childbirth.

“*Multidisciplinary team*” means the group of individuals as defined in Iowa Code section 235A.13.

641—90.2(135) Agency. The state mortality review committee is established in the department. The department will provide staffing and administrative support to the committee.

641—90.3(135) Membership. Committee membership will be determined pursuant to Iowa Code section 135.43(2).

641—90.4(135) Officers. The committee will elect a chairperson, a vice chairperson, and other officers as deemed necessary by the committee. Officers will be elected at the first meeting of each fiscal year. Vacancy in the office of the chairperson will be filled by elevation of the vice chairperson. Vacancy in the office of the vice chairperson will be filled by election at the next meeting after the vacancy occurs. The chairperson will preside at all meetings of the committee. If the chairperson is absent or unable to act, the vice chairperson will perform the duties of the chairperson. When so acting, the vice chairperson will have all the powers of and be subject to all restrictions upon the chairperson. The vice chairperson will also perform such other duties as may be assigned by the chairperson.

641—90.5(135) Subcommittees.

90.5(1) The committee may establish temporary or permanent subcommittees pursuant to Iowa Code sections 135.40, 135.43 and 135.110.

90.5(2) The committee shall establish appointment provisions, membership terms, operating guidelines, and other operational requirements for any subcommittees established.

641—90.6(135) Liaisons. Liaisons will be designated pursuant to Iowa Code section 135.43(5).

641—90.7(135) Meetings. The committee will meet pursuant to Iowa Code section 135.110(3).

641—90.8(135) Duties and responsibilities.

90.8(1) The committee will be responsible for the duties established in Iowa Code sections 135.43(3) and 135.110(1).

90.8(2) The committee will conduct comprehensive, multidisciplinary reviews of maternal deaths or other deaths in Iowa to residents to identify factors associated with the deaths and make recommendations for system changes to prevent future deaths.

The department annually shall systematically ascertain maternal deaths using birth, fetal death and death vital records.

641—90.9(135) Disclosure of information.

90.9(1) The committee and subcommittees shall have access to patient records and other confidential information. In preparation for review of an individual death by the committee or subcommittee, the chairperson of the committee or the chairperson's designee is authorized to gather all information pertinent to the review. A person in possession or control of medical, investigative or other information pertaining to a child death, child abuse, domestic abuse, maternal death, or other death review with an established subcommittee shall allow the inspection and reproduction of the information by the department, upon the request of the department, to be used only in the administration and for the duties of the committee. A person does not incur legal liability by reason of releasing information to the department as mandated under and in compliance with this rule.

The committee and subcommittees will maintain the confidentiality of all information and records used in the review, including disclosure of information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

90.9(2) In the event of a maternal death, the certifying physician shall indicate that circumstance on the certificate of death.

90.9(3) Any person, hospital, sanatorium, or other organization shall make available to the department for inspection records, reports, statements, interviews or other data necessary to fulfill the duties of the committee or subcommittees.

641—90.10(135) Immunity and liability. Committee and subcommittee members are immune from any liability, civil or criminal, as established in Iowa Code section 135.43(8). A person who releases or discloses confidential data, records, or any other type of information in violation of this chapter is guilty of a serious misdemeanor.

These rules are intended to implement 2024 Iowa Acts, Senate File 2385, and Iowa Code sections 135.40, 135.43, 135.108, 135.110, and 135.111.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8972C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to domestic abuse death review team

The Department of Health and Human Services hereby rescinds Chapter 91, "Iowa Domestic Abuse Death Review Team," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135.112.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.108 and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

The purpose of the Domestic Abuse Death Review Team is to aid in the reduction of the incidence of domestic abuse deaths by accurately identifying the cause and manner of deaths occurring from domestic violence and by making recommendations for changes in policy and practice to improve community interventions for preventing domestic abuse deaths.

The State Mortality Review Committee (2024 Iowa Acts, Senate File 2385) prompted the centralization of death review teams. Chapter 91 is being rescinded and centralized with 641—Chapters 5, 90 and 92. Procurement and review will continue to occur as part of this centralized chapter and as a subcommittee of the State Mortality Review Committee.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8566C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 17, 2025

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 Department on January 31, 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

There is no waiver provision because 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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 91**.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8973C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to Iowa fatality review committee

The Department of Health and Human Services hereby rescinds Chapter 92, "Iowa Fatality Review Committee," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135.43.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

2024 Iowa Acts, Senate File 2385, created the State Mortality Review Committee. This prompted the centralization of death review teams. Chapter 92 is being rescinded and centralized with 641—Chapters 5, 90 and 91.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8567C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 17, 2025

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 Department on January 31, 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

There is no waiver provision because 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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 92**.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8974C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed****Rulemaking related to interagency coordinating council for the state medical examiner**

The Department of Health and Human Services hereby rescinds Chapter 124, “Interagency Coordinating Council for the State Medical Examiner,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 691.6B (repealed by 2024 Iowa Acts, Senate File 2385, section 368).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This rulemaking implements, in part, 2024 Iowa Acts, Senate File 2385, section 368, which directs the repeal of Iowa Code section 691.6B, which describes the Interagency Coordinating Council. Chapter 124 is the chapter that describes the Interagency Coordinating Council of the State Medical Examiner and is therefore being rescinded.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8464C**. A public hearing was held on the following date(s):

- January 15, 2025
- January 17, 2025

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 Department on January 31, 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

There is no waiver provision in this rulemaking because the chapter 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 April 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 124**.

[Filed 1/31/25, effective 4/1/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8910C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to liquefied petroleum gas

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 226, "Liquefied Petroleum Gas," 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 101.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 101 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 226. This rulemaking implements Iowa Code section 101.1 in accordance with the goals and directives of Executive Order 10. Iowa Code section 101.1 requires that the Department adopt reasonable rules for the safe transportation, storage, handling, and use of liquefied petroleum gases. Iowa Code section 101.2 requires the rules to be in substantial compliance with the standards of the National Fire Protection Association (NFPA) relating to liquefied petroleum gases. Iowa Code section 101.3 states that the rules governing liquefied petroleum gas shall be formulated and promulgated separately from those covering combustible and flammable liquids and liquefied natural gases. Iowa Code section 10A.511 grants to the director of the Department the duty to enforce all laws, rules and regulations concerning the storage, transportation, handling, and use of liquid petroleum gas.

These rules implement the aforementioned Iowa Code sections by adopting the provisions of the NFPA 54-ANSI Z223.1 and 58, 2024 edition, with amendments.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8677C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

Blake O'Brien, Fire Protection Engineer with the city of Des Moines, was present at the first hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 661—Chapter 226 and adopt the following **new** chapter in lieu thereof:

CHAPTER 226
LIQUEFIED PETROLEUM GAS

661—226.1(101) General requirements. The provisions of the National Fire Protection Association, NFPA 54, ANSI Z223.1-2024 National Fuel Gas Code, 2024 edition, and NFPA 58, Liquefied Petroleum Gas Code, 2024 edition, published by the National Fire Protection Association and available at www.nfpa.org, and all references contained therein, are hereby adopted by reference as the general requirements for transportation, storage, handling, and use of liquefied petroleum gas, with the following amendments and interpretive guidelines:

1. Where a stationary installation utilizes a storage container of more than 2,000 gallons (7,750 L) of individual water capacity, or the aggregate water capacity of storage containers in a grouping is more than 4,000 gallons (15,140 L) in water capacity, the installer shall submit plans for such installation to the department for review and approval. Installation shall not commence until written approval from the department has been received. Any reporting fire department where the tank(s) is located will be advised of each installation.

2. Underground gas piping that is outside a building shall not be in physical contact with any concrete.

3. Cylinders installed permanently on roofs of buildings are prohibited.

4. All training programs shall be instructor-led by a competent trainer and include a closed book test and a skills assessment.

5. Prior to acceptance and initial operation, all piping systems (including hose) shall be visually inspected and pressure-tested by the installer to determine that the materials, design, fabrication, and installation practices comply with the requirements of this chapter.

a. Pressure testing of piping systems is required as follows:

i. Piping systems with operating pressures greater than 20 psi shall have a test pressure no less than 50 psi and shall not exceed 75 psi.

- (1) The test medium used for pressure testing shall be air, nitrogen, carbon dioxide, or an inert gas.
 - (2) Propane vapor may be used; propane liquid shall not be used.
 - ii. Piping systems having operating pressures of 20 psi or less, and piping to which NFPA 54, National Fuel Gas Code, is applicable shall be pressure tested in accordance with that code.
 - (1) The test medium used for pressure testing shall be air, nitrogen, carbon dioxide, or an inert gas.
 6. On or after January 1, 2012, the use of railroad tank cars in stationary service will be prohibited.
 - a. Existing installations with prior approval of the department (documented in writing) will be permitted to remain in service.
 7. To the extent that NFPA standards are inconsistent with International Fire Code standards, the NFPA standards shall rule.
- This rule is intended to implement Iowa Code chapter 101.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8911C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to liquefied natural gas

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 228, "Liquefied Natural Gas," 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 101.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 101 and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 228. This rulemaking implements Iowa Code section 101.1 in accordance with the goals and directives of Executive Order 10. Iowa Code section 101.1 requires that the Department adopt reasonable rules for the safe transportation, storage, handling, and use of liquefied natural gases. Iowa Code section 101.2 requires that the rules be in substantial compliance with the standards of the National Fire Protection Association relating to liquefied natural gases. Iowa Code section 10A.511 requires the Director to enforce all laws, rules and regulations concerning the storage, transportation, handling, and use of flammable liquids, combustibles, fireworks and explosives, as well as liquid petroleum gas.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8667C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

Blake O'Brien, Fire Protection Engineer with the city of Des Moines, was present for the first hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 661—Chapter 228 and adopt the following **new** chapter in lieu thereof:

CHAPTER 228
LIQUEFIED NATURAL GAS

661—228.1(101) Transportation, storage, handling, and use of liquefied natural gas. NFPA 59A, “Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG),” 2023 edition, published by the National Fire Protection Association and available at www.nfpa.org, is adopted by reference as the rules governing the transportation, storage, handling, and use of liquefied natural gas. Persons who transport, store, handle, or use liquefied natural gas shall comply with the applicable requirements established therein.

This rule is intended to implement Iowa Code chapter 101.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8912C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

**Rulemaking related to explosive materials and licensing for
commercial explosive contractors and blasters**

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 231, “Manufacturing, Storage, Handling, and Use of Explosive Materials”; adopts new Chapter 231 “Manufacturing, Storage, Handling, Use of Explosive Materials, and Licensing for Commercial Explosive Contractors and Blasters”; and rescinds Chapter 235, “Licensing for Commercial Explosive Contractors and Blasters,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 10A.511 and 101A.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 101A and Executive Order 10.

Purpose and Summary

This rulemaking repromulgates Chapter 231 and 235 into one combined chapter. This rulemaking implements Iowa Code sections 10A.511 and 101A.5 in accordance with the goals and directives of Executive Order 10. Iowa Code section 10A.511(3) provides that the Director of the Department shall promulgate fire safety rules in consultation with the state fire marshal. The rules are to promote and enforce fire safety, fire protection, and the elimination of fire hazards relating to the use, occupancy, and construction of buildings, establishments, or structures. Rules shall be in substantial compliance, except as otherwise specifically provided in Iowa Code chapter 10A, with the standards of the National Fire Protection Association (NFPA) relating to fire safety as published in the national fire codes.

Iowa Code section 101A.5 provides that the Director shall adopt rules pursuant to Iowa Code chapter 17A pertaining to the manufacture, transportation, storage, possession, and use of explosives materials. Rules must be compatible with but not limited to the NFPA’s pamphlet number 495 and federal rules pertaining to commerce, possession, storage, and use of explosive materials. The Director will also require reports from licensees and permittees as are necessary to discharge the Director’s duties and will prescribe the form and content of license and permit applications. The Director is required to conduct any inspections necessary to enforce the provisions of Iowa Code chapter 101A.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8668C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 15, 2025

Blake O’Brien, Fire Protection Engineer with the city of Des Moines, was present at the first hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 29, 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, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 661—Chapter 231 and adopt the following **new** chapter in lieu thereof:

CHAPTER 231

MANUFACTURING, STORAGE, HANDLING, USE OF EXPLOSIVE MATERIALS,
AND LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS

NOTE: Any person who purchases, possesses, transports, stores, or uses explosive materials must comply with all applicable federal laws and regulations as well as with Iowa Code chapter 101A and this chapter.

661—231.1(101A) Explosive materials. NFPA 495, “Explosive Materials Code,” 2023 edition, is hereby adopted by reference as the rules governing the manufacture, transportation, storage, and use of explosive materials in the state of Iowa, with the following amendments:

Delete the phrase “authority having jurisdiction” wherever it occurs and insert in lieu thereof the word “director.”

Delete the phrases “issuing authority” and “permit-issuing authority” wherever they occur and insert in lieu thereof the word “director.”

Amend Section 1.5 to read as follows:

1.5 Equivalency.

Nothing in this code is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety over those prescribed by this code. Any request for approval to use systems, methods, or devices other than those specified in this chapter shall be submitted to the director as a request for a waiver of a rule.

Delete Sections 4.7 through 4.7.4.

Amend Sections 4.2, 4.2.1, 4.2.2, 4.2.3, 4.3 through 4.3.2, 4.4 through 4.4.5, 4.5, 4.5.1, 4.5.2, 4.5.3, 4.6 through 4.6.3, 4.8.1, 4.8.3, and 4.8.4, by deleting the words “permit” and “permits” wherever they occur and inserting in lieu thereof, respectively, the word “license.”

Add the following new section:

9.4.6.3 A fire department that has received information pursuant to this section may re-disseminate the information to the state fire marshal, another fire department that is responding to a fire or other incident at the location at which the explosives are stored, or to a law enforcement agency. Information received by a fire department pursuant to this section shall not be redisseminated except as provided in this section.

Amend Section 9.6.3.7 Type 3 magazines containing explosive materials shall be within line-of-sight vision of a blaster or, if not within line-of-sight vision of a blaster, shall be secured if in a vehicle or in a secure building, facility, or area.

661—231.2(101A) Definitions. Definitions set forth in Iowa Code section 101A.1 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

“Actual possession” means when a person is in immediate possession or control of explosive materials (e.g., an employee who physically handles explosive materials as part of the production process; or an employee, such as a blaster, who actually uses explosive materials).

“Applicant” means an individual employed by a commercial explosive contractor or person associated with a commercial explosive contractor who meets the definition of “employee possessor” or “responsible person” as defined in this chapter.

“Commercial explosive blaster” or *“blaster”* means any individual who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material.

“Commercial explosive contractor” or *“contractor”* means any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment.

“Constructive possession” means when an employee lacks direct physical control over explosive materials but exercises dominion and control over the explosive materials, either directly or indirectly through others (e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored, or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser).

“Employee possessor” means an individual who has actual or constructive possession of explosive materials during the course of the individual’s employment.

“Offense directly relates” refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.
2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

“Responsible person” means an individual who has the power to direct the management and policies of the commercial explosive contractor pertaining to explosive materials. For example, responsible persons generally include sole proprietors and explosives facility site managers. In the case of a corporation, association, or similar organization, responsible persons generally include corporate directors and officers, as well as stockholders who have the power to direct management and policies.

661—231.3(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive contractor license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current commercial explosive blaster license issued pursuant to this chapter. A commercial explosive blaster license is not required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes “fireworks” from the definition of “explosive.” Consequently, working with fireworks does not necessitate a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks necessitate a commercial explosive license.

661—231.4(101A,272C) License application process.

231.4(1) *Application for commercial explosive contractor or commercial explosive blaster license.* Applications for a commercial explosive contractor license or a commercial explosive blaster license are available on the department’s website. The application shall be filed no later than 30 days prior to the date of beginning work in this state or on which an existing license expires.

231.4(2) *Submission of application and required information.* A completed application for a license shall be submitted to the department at the address specified on the department’s website. An application

will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

231.4(3) *License fee.* Each license application shall be accompanied by a license fee as set forth in Iowa Code section 101A.2(2). The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

231.4(4) *License duration.* Licensure will normally be for three years and expire on December 31 of the third year after it is issued, except that a license issued in December of any year expires on December 31 after two years have passed from the date on which the license was issued.

231.4(5) *Criminal history.* An applicant is subject to a national criminal history check pursuant to Iowa Code section 101A.2(3).

231.4(6) *Veterans and military service members.* Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a commercial explosive contractor or blaster should apply for licensure in accordance with 481—Chapter 7.

661—231.5(101A) Issuance of commercial explosive contractor license. A commercial explosive contractor license will be issued if all of the following conditions have been satisfied:

231.5(1) All items required on the application have been completed, and any items the department deems necessary to verify have been appropriately verified.

231.5(2) No applicant for whom commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective contractor licensee may:

- a. Have been convicted of any offense involving explosives or firearms;
- b. Have been previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c. Be an unlawful user of or be addicted to controlled substances;
- d. Have been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.

231.5(3) The applicant has at least one responsible person or employee licensed as a commercial explosive blaster.

661—231.6(101A) Issuance of a commercial explosive blaster license. A commercial explosive blaster license will be issued if all of the following conditions have been satisfied:

231.6(1) The applicant is an employee of a licensed commercial explosive contractor.

a. If, after a commercial explosive blaster license is issued, such employment ceases, the employing contractor and the commercial explosive blaster shall each notify the department within three business days of the final day of employment that the employment has ceased, and the commercial explosive blaster license shall be suspended until the commercial explosive blaster is again employed with a licensed commercial explosive contractor.

b. Upon reemployment, the employer shall notify the department that the commercial explosive blaster is again employed with a licensed commercial explosive contractor, and the department will reinstate the commercial explosive blaster license as soon as practical, provided that the commercial explosive blaster is not disqualified from holding a license pursuant to any provision of this chapter.

c. If the department finds that a commercial explosive blaster is disqualified from holding a license, the department shall revoke the license.

231.6(2) All items required on the application have been completed and any items the department deems necessary to verify have been verified and found to be true.

231.6(3) The applicant is not or has not been:

- a.* Convicted of any offense involving explosives or firearms;
- b.* Previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c.* An unlawful user of or addicted to controlled substances;
- d.* Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or
- e.* A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely toward themselves or others.

231.6(4) The applicant has satisfactorily completed training approved by the department for the handling and use of explosives as described on the department's website. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The department may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive contractor licensee.

EXCEPTION: The department may issue a commercial explosive blaster license to a person licensed or certified as a blaster in another state, provided that the department finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

231.6(5) An applicant for a renewal license has completed continuing education from a nationally recognized institution in professional explosives storage, handling, and use.

231.6(6) The applicant is 21 years of age or older.

661—231.7(272C) Licensure of persons licensed in other jurisdictions.

231.7(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

231.7(2) Notwithstanding any other provision of law, a commercial explosive contractor license or commercial blaster license will be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

- a.* The person is currently licensed by at least one other issuing jurisdiction as a commercial explosive contractor or commercial blaster with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.
- b.* The person has been licensed by another issuing jurisdiction for at least one year.
- c.* When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.
- d.* The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.
- e.* The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.
- f.* The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the department shall determine if the cause for the action was corrected and the matter resolved. If the department determines that the matter has not been resolved by the jurisdiction imposing discipline, the department shall not issue or deny a license to the person until the matter is resolved.
- g.* The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the department shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.
- h.* The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the commercial explosive contractor license or commercial blaster license applied for in this state.

231.7(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the department marshal.

231.7(4) This rule does not apply to any of the following:

a. The ability of the department to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the department to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the department requires an applicant to take and pass an examination specific to the laws of this state, the department will issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

231.7(5) Except as provided in subrule 231.7(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a commercial explosive contractor or commercial blaster may be considered to have met any education, training, or work experience requirements imposed by the department in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the department.

231.7(6) A person applying for a license in this state under the requirements of this subrule shall submit the request in writing to the department providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

661—231.8(101A) Inventory and records. Each licensed commercial explosive business shall maintain records as referenced in National Fire Protection Association (NFPA) Chapter 495, "Explosive Materials Code," as adopted by reference in rule 661—231.1(101A).

661—231.9(101A) Complaints. Complaints regarding the performance of any licensed contractor or blaster, failure of a licensed contractor or blaster to meet any of the requirements established in Iowa Code chapter 101A or this chapter or any other provision of law, or operation as a commercial explosive contractor or commercial blaster without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or blaster against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

661—231.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

231.10(1) The department may refuse to issue a contractor or blaster license sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

a. Finding that the applicant or licensee is disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

b. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.

c. Finding that the applicant or licensee falsified information in the current or any previous license application.

d. Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.

e. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A or this chapter.

f. Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of health and human services pursuant to the procedures set forth in Iowa Code chapter 252J.

g. Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

h. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the applicant, in the courts of this state or another state, territory or country. Conviction as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

i. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the applicant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

j. Willful or repeated violations of the provisions of this chapter.

k. Disqualifications pursuant to Iowa Code section 272C.15.

231.10(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action by requesting a contested case hearing, in writing, within 20 days of the department's determination. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue are subject to the procedures set forth in 481—Chapter 8.

231.10(3) The department will notify the employing commercial explosive contractor licensee of the denial, suspension, or revocation of a commercial explosive blaster license.

These rules are intended to implement Iowa Code chapters 101A and 272C.

ITEM 2. Rescind and reserve **661—Chapter 235**.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8892C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Rulemaking related to sports wagering and fantasy sports contests

The Racing and Gaming Commission hereby amends Chapter 13, "Sports Wagering," and Chapter 14, "Fantasy Sports Contests," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99E.3 and 99F.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 99E and 99F.

Purpose and Summary

Item 1 enhances licensee requirements for messaging to applicants/customers with regard to underage wagering and account sharing.

Item 2 clarifies licensee requirements by removing the requirement to utilize a list in determining prohibited players, which effectively reverts the rule to language that was present prior to recent rulemaking.

Item 3 resolves issues and concerns with a previously delayed rulemaking process.

Item 4 resolves issues and concerns with a previously delayed rulemaking process.

Item 5 resolves issues and concerns with a previously delayed rulemaking process.

Item 6 clarifies requirements for geolocation testing and auditing.

Item 7 resolves issues and concerns with a previously delayed rulemaking process.

Item 8 clarifies licensee requirements by removing the requirement to utilize a list in determining prohibited players, which effectively reverts the rule to language that was present prior to recent rulemaking.

Item 9 clarifies licensee requirements for account verification at registration.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8475C**. A public hearing was held on the following date(s):

- January 2, 2025

One individual attended in person and one by telephone. Both represented stakeholders and were in support of the amendments.

Three sets of written comments were received from stakeholders. Two were in support of the amendments. The third comment asked that “commercially reasonable efforts” be added to paragraph 13.2(7)“b” in Item 2; however, the preamble to that rule already contains language that indicates the Commission’s expectation that licensees use reasonable methods. Additionally, the statute specifically requires “reasonable steps.”

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on January 23, 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 Commission 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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule 13.2(4) and adopt the following **new** subrule in lieu thereof:

13.2(4) *Public notice.*

a. The public shall have access to the sports wagering rules, available wagers, odds or payouts, the payout period, and the source of the information used to determine the outcome of a sports wager. All licensees and advance deposit sports wagering operators shall require participants to follow the rules of play. The sports wagering rules shall be:

- (1) Displayed in the licensee's sports wagering area.
- (2) Posted on the Internet site or mobile application used to conduct advance deposit sports wagering.
- (3) Included in any terms and conditions disclosure statements of the advance deposit sports wagering system.

b. During account registration and each time the user logs in, advance deposit sports wagering operators shall display the following information on any interface that accepts wagers:

- (1) Account sharing is prohibited.
- (2) Persons under the age of 21 are prohibited from wagering.
- (3) Any other disclosures, as required by the administrator.

ITEM 2. Rescind paragraphs **13.2(7)“a”**, **13.2(7)“b”** and **13.2(7)“d”** and adopt the following **new** paragraphs in lieu thereof:

a. To prohibit wagering by coaches, athletic trainers, officials, players, or other individuals who participate and persons employed in a position with direct involvement with coaches, athletic trainers, officials, players or other individuals who participate in an authorized sporting event in which wagers may be accepted.

b. To identify and suspend accounts opened by individuals on behalf of persons under the age of 21.

d. To promptly report to the commission, in a format approved by the administrator, any abnormal wagering activity or patterns that may indicate a concern about the integrity of an authorized sporting event or events, and any other conduct with the potential to corrupt a wagering outcome of an authorized sporting event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, account sharing, or use of false identification. Integrity-monitoring procedures shall also provide for the sharing of information with other licensees, other governing authorities, and accredited sports governing entities by participating in an integrity-monitoring association or group or by another method as approved by the administrator.

ITEM 3. Rescind subrule 13.5(2) and adopt the following **new** subrule in lieu thereof:

13.5(2) *Account registration.* A person must have an established account in order to place advance deposit sports wagers. The process for establishing an account is subject to the administrator's approval. An account may be established through on-site registration under procedures previously approved by the administrator or through remote registration. To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth, last four digits of the social security number, and any other information required by the administrator. The account registration process shall also include:

a. Age verification to prevent persons under the legal age for sports wagering from establishing an account.

b. An applicant verification process that includes an exact match of the following:

- (1) Date of birth, including month, date and year of birth.

- (2) The last four digits of the social security number.
- (3) Last name.
- c. An applicant verification process that permits a flexible match by allowing the following:
 - (1) First name may include nicknames and abbreviations.
 - (2) Address may include abbreviations.
- d. Authentication of identification by:
 - (1) Answering knowledge-based questions based on the applicant's public or private data; or
 - (2) Verifying that device ID and phone number match the applicant's publicly known data; or
 - (3) Comparing of valid government-issued ID to applicant's picture taken at time of account registration; or
 - (4) Another method as approved by the administrator.
- e. Verification that the player applicant is not on the statewide self-exclusion list set forth in Iowa Code section 99F.4(22) prior to establishing an account.
- f. Availability and acceptance of a set of terms and conditions that is also readily accessible to the player before and after registration and noticed when updated. Notices shall include, at a minimum, the following:
 - (1) Explanation of rules in which any unrecoverable malfunctions of hardware/software are addressed, including but not limited to if the unrecoverable malfunction, wagering event cancellation, or other catastrophic malfunction results in the voiding of any wagers.
 - (2) Procedures to deal with interruptions caused by the suspension of data flow from the network server during an event.
 - (3) Specifications advising players to keep their account credentials secure.
 - (4) Statement that no underage individuals are permitted to participate in wagering.
 - (5) Explanation of conditions under which an account is declared inactive and actions undertaken on the account once this declaration is made.
- g. Availability and acceptance of a privacy policy that is also readily accessible to the player before and after registration and noticed when updated and that includes, at a minimum, the following:
 - (1) Statement of information that is collected, the purpose for information collection, and the conditions under which information may be disclosed.
 - (2) Statement that any information obtained in respect to player registration or account establishment must be done in compliance with the privacy policy.
 - (3) Requirement that any information about player accounts that is not subject to disclosure pursuant to the privacy policy must be kept confidential, except where the release of that information is required by law.
 - (4) Requirement that all player information must be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is properly disposed of by the licensee. If erasure is not possible, the storage device must be destroyed.
- h. If an advance deposit sports wagering operator has an agreement with more than one licensee, the advance deposit sports wagering operator shall submit an agreement to the administrator that indicates the manner in which customer net receipts shall be assigned with its licensee partners. The agreement shall include all partnering licensees and their respective qualified sponsoring organizations, and the net receipts shall be allocated using one of the following methods:
 - (1) Make available an option for new remotely registered customers to select the licensee at which net receipts are assigned.
 - (2) Allocate new remotely registered customer net receipts to the licensee that is located nearest to the customer's principal residential address.
 - (3) Distribute all customer receipts evenly between all licensees for which an agreement exists.
 - (4) An alternative allocation agreement that complies with local, state and federal law. The agreement shall be made available for public inspection.

ITEM 4. Rescind paragraphs **13.5(3)“b”** and **13.5(3)“e”** and adopt the following **new** paragraphs in lieu thereof:

b. Location detection procedures to reasonably detect and dynamically monitor the location of a player attempting to place any wager or perform other account activities as identified by the advance deposit sports wagering operator or licensee, related to an Iowa authorized account. Account activity-based location detection controls shall be informed by industry best practices and any commission guidelines for the detection of fraud or other unauthorized or illegal activity. The advance deposit sports wagering operator or licensee shall utilize and monitor geolocation activity to detect potential fraudulent and suspicious activity, which shall be reported in accordance with paragraph 13.2(7)“d.” A player outside the permitted boundary attempting to make a wager shall be rejected, and the player shall be notified. The confidence radius shall be entirely located within the permitted boundary.

e. Authentication for login using a multifactor authentication process or other secure alternative means as authorized by the commission. After successful login, multifactor authentication will need to be performed at least every 14 days for each unique device. Processes for retrieving lost usernames and passwords shall be available, secure, and clearly disclosed to the player. Players shall be allowed to change their passwords.

ITEM 5. Rescind subrule 13.5(7) and adopt the following new subrule in lieu thereof:

13.5(7) *Expiration or termination of an Iowa Code section 99F.7A operating agreement.* In the event an advance deposit sports wagering operating agreement between a licensee under Iowa Code section 99F.7A and another entity expires, terminates, or is no longer valid, notice of termination must be given to the commission and all customers affiliated with the licensee. A customer shall be given an opportunity to close an account. If the advance deposit sports wagering operator has an operating agreement with other licensees in the state of Iowa, the customer shall have the option to select another partner licensee to which their net receipts shall be assigned, or the customer’s net receipts shall be assigned to any remaining partner licensees in accordance with an agreement submitted to the administrator pursuant to paragraph 13.5(2)“h.”

ITEM 6. Rescind paragraphs **13.6(3)“b”** and **13.6(3)“c”** and adopt the following new paragraphs in lieu thereof:

b. A geolocation system and integrity test shall be performed annually on the advance deposit wagering system.

(1) The testing organization must be independent of the licensee and the licensed geolocation vendor and shall be qualified by the administrator.

(2) The geolocation test shall be completed and the results submitted no later than March 31 of each year.

(3) Geolocation testing shall review existing licensee procedures for detecting and reporting fraudulent activity associated with any account activity detected by the geolocation system.

c. At the discretion of the administrator, additional assessments or specific testing criteria may be required.

ITEM 7. Rescind subrule 14.7(2) and adopt the following new subrule in lieu thereof:

14.7(2) Customer verification.

a. A customer verification process shall include an exact match of the following:

(1) Date of birth, including month, date and year of birth.

(2) The last four digits of the social security number.

(3) Last name.

b. A customer verification process shall permit a flexible match by allowing the following:

(1) First name may include nicknames and abbreviations.

(2) Address may include abbreviations.

c. A customer verification process shall authenticate identification by the following:

(1) Answering knowledge-based questions based on the applicant’s public or private data; or

(2) Verifying that device ID and phone number match the applicant’s publicly known data; or

(3) Comparing a valid government-issued ID to a photo of the applicant taken at the time of account registration; or

(4) Another method as approved by the administrator.

ITEM 8. Rescind paragraph **14.8(1)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Restriction of entries from coaches, officials, athletes, contestants, or other individuals who participate in a game or contest that is the subject of an Internet fantasy sports contest in which the outcome is determined, in whole or in part, by the accumulated statistical results of a team of individuals in the game or contest in which they participate.

ITEM 9. Rescind paragraph **14.8(5)“h”** and adopt the following **new** paragraph in lieu thereof:

h. During account registration and each time the user logs in, fantasy sports contest service providers shall display the following information on any interface that accepts fantasy sports contest entries:

- (1) Account sharing is prohibited.
- (2) Persons under the age of 21 are prohibited from entering fantasy sports contests.
- (3) Any other disclosures, as required by the administrator.

[Filed 1/23/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8944C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to rules on agency procedure

The Revenue Department hereby rescinds Chapter 1, “Conversion Chart,” and adopts a new Chapter 1, “Renumbering Conversion Table”; adopts a new Chapter 2, “Organization,” Chapter 3, “Rulemaking and Rule Waiver Procedures,” and Chapter 4, “Declaratory Orders”; rescinds Chapter 5, “Public Records and Fair Information Practices,” and adopts a new chapter with the same title; rescinds Chapter 6, “Organization,” and adopts a new Chapter 6, “Contested Cases Related to Alcohol and Lottery Proceedings”; rescinds Chapter 7, “Appeals, Taxpayer Representation, and Other Administrative Procedures,” and adopts a new Chapter 7, “Tax Appeals, Taxpayer Representation, and Other Administrative Procedures”; and amends Chapter 201, “Sales and Use Tax Permits,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.9, 123.10 and 421.17.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

The Department, Lottery Authority, and Alcoholic Beverages Division all maintained their own set of rules on agency procedure. As a part of the government realignment, it is the goal of the Department to consolidate all relevant information from the following agency procedure chapters under one agency:

185—Chapters 1, 2, 3, 10, 18, and 19

531—Chapters 1, 3, 4, 5, and 6

701—Chapters 5, 6, and 7

The Department is rescinding all existing agency procedure rules under the Lottery Authority, Alcoholic Beverages Division, and the Department (companion rulemakings published herein, IAB 1/8/25) and replace them with a new set of rules under agency number [701]. This consolidation will

reduce the number of chapters and rules overall and make applicable practices across subject matters as uniform as possible. Additionally, appeal language is being added in subrules 201.10(3) and 201.11(3) that includes beneficial cross-references. Lastly, subrule 7.18(10) has minimal changes due to ongoing litigation and will be more closely reviewed in a later rulemaking.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8355C**. Two public hearings were held on the following date(s):

- December 4, 2024

Public comment was received. The Iowa Taxpayers Association provided comments both orally at the public hearing and via written comment through Iowa Taxpayers Association President and CEO Nate Ristow. The Department made changes to numbered paragraph 7.8(5)“b”(2)“3” in response to the comments but rejected other suggestions to Chapter 7 because that would have required adding language back into rule that is duplicative of statute. Also, unrelated to public comment, three incorrect rule cross-references were updated under paragraph 3.3(3)“b” and subrule 7.7(3).

Adoption of Rulemaking

This rulemaking was adopted by the Iowa Lottery Commission on December 18, 2024, and the Department on January 30, 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, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 1 and adopt the following **new** chapter in lieu thereof:

TITLE I ADMINISTRATION

CHAPTER 1

RENUMBERING CONVERSION TABLE

Since 2022, the Iowa department of revenue (department) has made significant changes to the organization of its chapters. Some of these changes were made to generally improve the organization of the rules; others were made to implement Executive Order 10 and 2023 Iowa Acts, Senate File 514. A

table with a comprehensive list of all current and updated chapters is available at the department website: revenue.iowa.gov/resources/law-policy-information/administrative-rules-renumbering-conversion-table.

ITEM 2. Adopt the following **new** 701—Chapter 2:

CHAPTER 2 ORGANIZATION

701—2.1(17A) Establishment of the department. Iowa Code sections 7E.5(1)“c” and 421.2 establish a department of revenue to be administered by a director of revenue with primary responsibility for revenue collection and revenue law compliance, as well as administration of the Iowa lottery and alcoholic beverage control.

701—2.2(17A) Mission. The mission of the department is to serve Iowans through the responsible collection and generation of revenue to support the public good.

701—2.3(17A) Offices. The department headquarters is maintained at the seat of state government in the Hoover State Office Building, 1305 East Walnut Street, P.O. Box 10460, Des Moines, Iowa 50319. Office hours of the department are 8 a.m. to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays, Sundays, and official state holidays designated in accordance with state laws.

2.3(1) Regional office of alcohol operations. The office of alcohol operations is located at 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021; telephone 515.281.7400 or 1.866.469.2223.

2.3(2) Offices of lottery operations. The main office of the Iowa lottery division is located at 13001 University Avenue, Clive, Iowa 50325-8225. The lottery division has regional offices in Cedar Rapids, Mason City, and Storm Lake, which offer some of the services available at the lottery division’s main office, and a central warehouse in Ankeny. The Iowa lottery commission may be contacted through the lottery division’s main office. Prize-redemption hours at lottery division offices are 8 a.m. to 4 p.m., Monday through Friday, with lottery offices closed on weekends and official state holidays.

701—2.4(17A) Department Internet websites.

2.4(1) Main website of the department. The department’s main Internet home page is revenue.iowa.gov.

2.4(2) Website of lottery division. The lottery division’s Internet home page is www.ialottery.com. Information regarding the lottery’s main and regional offices can be obtained on the lottery website, on point-of-sale game-play publications, and by contacting the main office of the lottery.

701—2.5(17A) Organization of the department. The department consists of the director, the lottery division, and other such divisions as the director may from time to time establish, abolish, or consolidate.

2.5(1) The office of the director. The essential functions of the office of the director include but are not limited to:

- a. Overall management of the agency.
- b. Review of appeals.
- c. Strategic planning and coordination of the future operations and goals of the department.
- d. Provision of financial checks and balances within the department.
- e. Facilitation of a working relationship between the public sector and the private sector.

2.5(2) Divisions. For ease of administration, the director has organized the department into divisions and, in some instances, has organized those divisions into bureaus, sections, subsections, and units. Except for the lottery division, the director may from time to time establish, abolish, or consolidate the department’s administrative divisions as the director deems necessary in order to more efficiently and effectively carry out the department’s responsibilities. Such divisions may include but are not limited to:

- a. Alcohol and tax compliance.
- b. Alcohol and tax operations.
- c. Financial services.

- d. Internal services.
- e. Legal services and appeals.
- f. Local government services.
- g. Lottery.
- h. Research and policy.

2.5(3) Designee. Unless otherwise delegated in statute, in rule, or otherwise in writing by the director, only the director, deputy director, or chief legal officer may enter into contracts or agreements on behalf of the department.

2.5(4) Organization of the alcoholic beverages commission. The alcoholic beverages commission consists of five commission members appointed by the governor and confirmed by the senate.

2.5(5) Organization of the lottery commission. The lottery commission consists of five members appointed by the governor and confirmed by the senate.

These rules are intended to implement Iowa Code sections 17A.3, 99G.5, 99G.8, 123.5, 123.6, 123.9, 123.10, 421.2, 421.9, 421.14, 421.17, 422.1 and 422.72.

ITEM 3. Adopt the following new 701—Chapter 3:

CHAPTER 3 RULEMAKING AND RULE WAIVER PROCEDURES

701—3.1(99G,123,421,17A) Applicability and scope of rules. These rules implement the Iowa administrative procedure Act and aid in the effective and efficient administration and enforcement of the laws of this state and other activities of the department. These rules govern the practice, procedure, and conduct of the rulemaking and requests for waiver of rules and certain other administrative procedures within the department's jurisdiction. 701—Chapters 6 and 7 contain rules on contested cases for all matters within the department's jurisdiction. 701—Chapter 4 contains rules on declaratory orders for all matters within the department's jurisdiction.

701—3.2(99G,123,421,17A) Definitions. Terms not defined below have the same meaning as defined in Iowa Code chapter 17A. These definitions apply to this chapter unless the text states otherwise:

"Department" means the Iowa department of revenue.

"Director" means the director of the department or the director's designee.

"GovConnectIowa" means the e-services portal of the department.

701—3.3(99G,123,421,17A) Department procedure for rulemaking.

3.3(1) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the department may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1) "a," solicit comments from the public on a subject matter of possible rulemaking by the department by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when, and how persons may comment.

The department may send notices of proposed rulemaking and a request for comments to any agency, organization, or association known to the department to have a direct interest or expertise pertaining to the substance of the proposed rule.

3.3(2) Public rulemaking docket. The department utilizes the public rulemaking docket available to all agencies on the Iowa legislature's website.

3.3(3) Notice of proposed rulemaking.

a. Contents. Except for rules filed through emergency rulemaking, at least 35 days before the adoption of a rule, the department shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

- (1) A brief explanation of the purpose of the proposed rule.
- (2) The specific legal authority for the proposed rule.
- (3) Except to the extent impracticable, the text of the proposed rule.
- (4) Where, when, and how persons may present their views on the proposed rules.

(5) Where, when, and how persons may demand an oral proceeding on the proposed rule if the Notice does not already provide for one.

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

b. Incorporation by reference. A proposed rule may incorporate other materials by reference only if it complies with all of the requirements in subrule 3.3(11) applicable to the incorporation by reference of other materials in an adopted rule.

c. Registration for Notices of Intended Action. Any person may register on the department's website to receive announcements related to rules from the department. Persons registered to receive announcements from the department will be notified of the publication of the department's Notices of Intended Action and Adopted and Filed rules. Persons who desire to request a paper copy of any rule filing need to make a request to the department's administrative rules coordinator, in writing or by email. The request must specify the rules requested and specify the number of copies. The requester will reimburse the department for the actual costs incurred in providing copies.

3.3(4) Public participation.

a. Written comments. For at least 20 days after publication of the Notice of Intended Action, persons may submit arguments, proposed alternatives, data, and views, in writing or via email, on the proposed rule. These submissions should identify the proposed rule to which they relate and should be submitted to the person designated on the Notice of Intended Action, or to the attention of the department's administrative rules coordinator, at the address provided in 701—paragraph 7.3(1) "c" or by email to the address provided in 701—paragraph 7.3(1) "b."

b. Oral proceedings. The department may, at any time, schedule an oral proceeding on a proposed rule. The department shall schedule an oral proceeding on a proposed rule if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the department by the administrative rules review committee, a governmental subdivision, a state agency, an association having not less than 25 members, or at least 25 persons. That request must contain the following information:

(1) A request by one or more individual persons must be signed by each of them and include the address and telephone number of each of them.

(2) A request by an association must be signed by an officer or designee of the association and must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.

(3) A request by a state agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity and must contain the address and telephone number of the person signing the request.

c. Conduct of oral proceedings.

(1) *Applicability.* This subrule applies only to those oral rulemaking proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1) "b" or this chapter.

(2) *Scheduling and notice.* An oral proceeding on a proposed rule may be held in person, virtually, or both, as decided by the department. The proceeding shall not be held earlier than 20 days after the related Notice of Intended Action is published in the Iowa Administrative Bulletin.

(3) *Presiding officer.* An employee of the department shall preside at the oral proceeding on a proposed rule.

(4) *Conduct of proceeding.* At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include arguments, proposed alternatives, data, and views concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the department at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who

participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by stenographic or electronic means.

1. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of both themselves and other individuals.

2. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.

3. To facilitate the exchange of information, the presiding officer may, where time permits, open the floor to questions or general discussion.

4. The presiding officer has the authority to take any reasonable action necessary for the orderly conduct of the meeting.

5. Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the department.

6. The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

7. Participants in an oral proceeding do not need to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other participants about any matter relating to that rulemaking proceeding, including any prior written submissions made by those participants in that proceeding. No participant is required to answer any question.

8. The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

d. Additional information. In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the department may obtain information concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

e. Accessibility. The department shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the person listed on the Notice of Intended Action or the department's administrative rules coordinator in advance to arrange access or other needed services.

3.3(5) Regulatory analysis.

a. Submission. The department shall issue a regulatory analysis of a proposed rule prior to submitting a notice of intended action to the governor's administrative rules coordinator and the administrative code editor pursuant to Iowa Code section 17A.4(1).

b. Contents. An issued regulatory analysis shall conform to the requirements of Iowa Code section 17A.4A(2) "a."

c. Public participation. For at least 20 days after publication of the regulatory analysis, persons may submit arguments, proposed alternatives, data, and views, on the regulatory analysis. The regulatory analysis shall state the time when, the place where, and the manner in which interested persons may provide written comment or oral presentation.

3.3(6) Fiscal impact statement. A rule that mandates additional combined expenditures exceeding \$100,000 or combined expenditures of at least \$500,000 within five years, by all affected political subdivisions, or by agencies and entities that contract with political subdivisions to provide services, must be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact statement must satisfy the requirements of Iowa Code section 25B.6.

If the department determines at the time it adopts a rule that the fiscal impact statement upon which the rule is based contains errors, the department shall, at the same time, issue a corrected fiscal impact statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

3.3(7) Time and manner of rule adoption.

a. Time of adoption. The department may only adopt a rule once the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action, or the end of oral proceedings, the department shall adopt a rule pursuant to the rulemaking proceeding or terminate the proceeding by publication of a notice to that effect in the Iowa Administrative Bulletin.

b. Consideration of public comment. Before the adoption of a rule, the department shall consider fully all of the written submissions and oral submissions received in that rulemaking proceeding or any written summary of the oral submissions and any regulatory analysis or fiscal impact statement issued in that rulemaking proceeding.

c. Reliance on department expertise. Except as otherwise provided by law, the department may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

3.3(8) Variance between adopted rule and published notice of proposed rule adoption.

a. Allowable variances. The department may only adopt a rule that differs from the rule proposed in the Notice of Intended Action on which the rule is based if:

(1) The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that Notice; and

(2) The differences are a logical outgrowth of the contents of that Notice of Intended Action or the comments submitted in response thereto; and

(3) The Notice of Intended Action provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

b. Fair warning. In determining whether the Notice of Intended Action provided fair warning that the outcome of that rulemaking proceeding could be the rule in question, the department shall consider the following factors:

(1) The extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests.

(2) The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action.

(3) The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

c. Petition for rulemaking. The department shall commence a rulemaking proceeding within 60 days of its receipt of a petition for rulemaking seeking the amendment or rescission of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based unless the department finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make such a rulemaking proceeding wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to the petitioner, the governor's administrative rules coordinator, and the administrative rules review committee within three days of its issuance.

d. Concurrent rulemaking proceedings. Nothing in this rule disturbs the discretion of the department to initiate, concurrently, several different rulemaking proceedings on the same subject with several different published Notices of Intended Action.

3.3(9) Exemptions from public rulemaking procedures, emergency rulemaking.

a. Omission of notice and comment. To the extent the department for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, and with the prior approval of the administrative rules review committee and governor's administrative rules coordinator, or if a statute so provides, the department may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The department shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

b. Public proceedings on rules adopted without them. The department may, at any time, commence a standard rulemaking proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon paragraph 3.3(9) "a." After a standard rulemaking proceeding commenced pursuant to

this subrule, the department may take any other lawful action, including the amendment or rescission of the rule in question, with whatever further proceedings are appropriate.

3.3(10) *Concise statement of reasons.*

a. *General.* When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the department shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered by mail to the address listed in paragraph 7.3(1)“c” or by email to the person listed on the adopted rule filing or to the department’s administrative rules coordinator at the address provided in paragraph 7.3(1)“b.” The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests shall be considered made on the date received in accordance with rule 701—7.4(17A).

b. *Contents.* The concise statement of reasons shall contain:

- (1) The reasons for adopting the rule;
- (2) An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as finally adopted, with the reasons for any change;
- (3) The principal reasons urged in the rulemaking proceeding for and against the rule, and the department’s reasons for overruling the arguments made against the rule.

c. *Time of issuance.* After a proper request, the department shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request.

3.3(11) *Contents, style, and form of rule.*

a. *Contents.* Each rule adopted by the department shall contain the text of the rule and, in addition:

- (1) The date the department adopted the rule;
- (2) A brief explanation of the principal reasons for the rulemaking action if the reasons are required by Iowa Code section 17A.4(2) or the department in its discretion decides to include the reasons;
- (3) A reference to all rules rescinded, amended, or suspended by the rule;
- (4) A reference to the specific statutory or other authority authorizing adoption of the rule;
- (5) Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule;
- (6) A brief explanation of the principal reasons for the failure to provide for waivers to the rule if no waiver provision is included and a brief explanation of any waiver or special exceptions provided in the rule if the reasons are required by Iowa Code section 17A.4(2), or the department in its discretion decides to include the reasons; and
- (7) The effective date of the rule.

b. *Incorporation by reference.* The department may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the department finds that the incorporation of its text in the department proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the department proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, as applicable. The department may incorporate such matter by reference in a proposed or adopted rule only if the department makes copies of it readily available to the public. The department shall retain permanently a copy of any materials incorporated by reference in a rule of the department. If the department adopts standards by reference to another publication, it shall post the publication containing the standards on the department’s website.

c. *References to materials not published in full.* When the administrative code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient, the department shall prepare and submit to the administrative code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted material. This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from

the department. The department shall post the full text available for review on the department's website. At the request of the administrative code editor, the department shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

3.3(12) *Filing of rules.* The department shall file each rule it adopts in the office of the governor's administrative rules coordinator. The filing shall be executed as soon after adoption of the rule as is practicable. At the time of filing, each rule shall have included with it any fiscal impact statement and any concise statement of reasons that was issued with respect to that rule. If a fiscal impact statement or statement of reasons for that rule was not issued until a time subsequent to the filing of that rule, the note or statement must be attached to the filed rule within five working days after the fiscal impact statement or concise statement is issued. In filing a rule, the department shall use the standard form prescribed by the administrative code editor.

3.3(13) *Effectiveness of rules prior to publication, emergency rulemaking.*

a. Grounds. The department may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The department shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

b. Special notice. When the department makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) "b," the department shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule's indexing and publication. The term "all reasonable efforts" requires the department to employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the department of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, personal notice, or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) "b" shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of paragraph 3.3(13) "b."

3.3(14) *Review of rules by department.* Over each five-year period of time, the department shall perform a retrospective analysis pursuant to Iowa Code section 17A.7(2) that includes a comprehensive evaluation and rigorous cost-benefit analysis of each existing chapter of rules to determine whether the benefits the rules are intended to achieve are being realized, whether those benefits justify the costs imposed by the rules, and whether there are less restrictive alternatives to accomplish those benefits. When the department's five-year review of its rules is completed, the department shall summarize the results and provide the written summary to the governor's administrative rules coordinator and the administrative rules review committee.

This rule is intended to implement Iowa Code chapter 17A and sections 123.10 and 421.14.

701—3.4(99G,123,421,17A) Docket. All review requests, public inquiries, petitions, and waivers coming within the purview of this chapter are assigned a docket number that is the official identification number of the matter for the purposes of identification. The parties will be notified of the docket number. The number will be placed by the parties on all documents thereafter filed in the proceeding.

701—3.5(99G,123,421,17A) Public inquiries on rulemaking and the rulemaking records. The department maintains records in accordance with the State Records Manual and agency retention schedule described in rule 671—2.2(305).

This rule is intended to implement Iowa Code section 17A.3.

701—3.6(99G,123,421,17A) Petition for rulemaking.

3.6(1) *Filing, form, and contents of petition.*

a. Filing. Any person or agency may file a petition for rulemaking using one of the methods described in subrule 7.3(1).

b. Department forms. A petition may be filed using the form available on GovConnectIowa. Alternatively, a petition may be filed using the form or the GovConnectIowa petition link found on the department's website, revenue.iowa.gov.

c. Manually created petitions.

(1) Persons who do not use the filing methods outlined in paragraph 3.6(1)“b” shall use the following format to submit a petition for rulemaking:

DEPARTMENT OF REVENUE

Petition by (Name of Petitioner)	*	PETITION FOR
for the (adoption, amendment, or	*	RULEMAKING
rescission) of rules relating to (state	*	
subject matter).	*	

(2) The petition must provide the following information:

1. A statement of the specific rulemaking action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or rescind a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or rescinded.

2. A citation to any law deemed relevant to the department's authority to take the action urged or to the desirability of that action.

3. A brief summary of the petitioner's arguments in support of the action urged in the petition.

4. A brief summary of any data supporting the action urged in the petition.

5. A complete history of any prior contacts between the petitioner and the department relating to the activity affected by the proposed rulemaking, including audits, notices of assessment, refund claims, appeals, contested case hearings, or investigative reports relating to the activity within the last five years.

6. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the proposed action that is the subject of the petition.

7. Any request by the petitioner for a meeting.

8. Any other matters deemed relevant that are not covered by the above requirements.

d. File-stamped copy. The department will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose.

3.6(2) *Form signed and dated.* The petition must be signed and dated by the petitioner or the petitioner's representative. It must also include the name, mailing address, telephone number, and email address of the petitioner and of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

3.6(3) *Denial by department.* The department may deny a petition because it does not substantially conform to the required form or because all the required information has not been provided.

3.6(4) *Briefs.* The petitioner may attach a brief to the petition in support of the action urged in the petition. The department may request a brief from the petitioner or from any other person concerning the substance of the petition.

3.6(5) *Status of petition.* Inquiries concerning the status of a petition for rulemaking may be made to the department's administrative rules coordinator by mail at the address listed in paragraph 7.3(1)“c” or by email to the address provided in paragraph 7.3(1)“b.”

3.6(6) *Informal meeting.* If requested in the petition by the petitioner, the department may schedule an informal meeting between the petitioner and the department, or a member of the staff of the department, to discuss the petition. The department may request that the petitioner submit additional information or argument concerning the petition. The department may also solicit comments from any

person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the department by any person.

3.6(7) Action required. Within 60 days after the filing of the petition, or within an extended period as agreed to by the petitioner, the department must, in writing, either (a) deny the petition and notify the petitioner of the department's action and the specific grounds for the denial or (b) grant the petition and notify the petitioner that the department has instituted rulemaking proceedings on the subject of the petition. The petitioner shall be deemed notified of the denial of the petition or the granting of the petition on the date that the department mails or delivers the required notification to the petitioner. All orders granting or denying a petition shall be submitted to the administrative rules review committee.

3.6(8) New petition. Denial of a petition because the petition does not substantially conform to the required form does not preclude the filing of a new petition on the same subject when the new petition contains the required information that was the basis for the original denial.

This rule is intended to implement Iowa Code chapter 17A.

701—3.7(99G,123,421,17A) Waiver of certain department rules. All discretionary rules or discretionary provisions in a rule over which the department has jurisdiction, in whole or in part, may be subject to waiver.

3.7(1) Definitions. The following terms apply to the interpretation and application of this rule:

“Discretionary rule” or *“discretionary provisions in a rule”* means rules or provisions in rules resulting from a delegation by the legislature to the department to create a binding rule to govern a given issue or area. The department is not interpreting any statutory provision of the law promulgated by the legislature in a discretionary rule. Instead, a discretionary rule is authorized by the legislature when the legislature has delegated the creation of binding rules to the department and the contents of such rules are at the discretion of the department. A rule that contains both discretionary and interpretive provisions is deemed to be a discretionary rule to the extent of the discretionary provisions in the rule.

“Interpretive rules” or *“interpretive provisions in a rule”* means rules or provisions in rules that define the meaning of a statute or other provision of law or precedent where the department does not possess the delegated authority to bind the courts to any extent with its definition.

“Waiver” means a department action that suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

3.7(2) Scope of rule.

a. This rule creates generally applicable standards and a generally applicable process for granting individual waivers from the discretionary rules or discretionary provisions in rules adopted by the department in situations where no other specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific waiver provision shall supersede this rule with respect to any waiver from that rule.

b. The waiver provisions set forth in this rule do not apply to rules over which the department does not have jurisdiction or when issuance of the waiver would be inconsistent with any applicable statute, constitutional provision, or other provision of law.

3.7(3) Applicability of this rule.

a. This rule applies only to waiver of those rules that are within the exclusive rulemaking authority of the department. This rule shall not apply to interpretive rules that merely interpret or construe the meaning of a statute, or other provision of law or precedent, if the department does not possess statutory authority to bind a court, to any extent, with its interpretation or construction. Thus, this waiver rule applies to discretionary rules and discretionary provisions in rules and not to interpretive rules.

b. The application of this rule is strictly limited to petitions for waiver filed outside of a contested case proceeding. Petitions for waiver from a discretionary rule or discretionary provisions in a rule filed after the commencement of a contested case as provided in rule 701—7.15(17A) will be treated as an issue of the contested case to be determined by the presiding officer of the contested case.

3.7(4) Authority to grant a waiver. The director may not issue a waiver under this rule unless:

a. The legislature has delegated authority sufficient to justify the action; and

b. The waiver is consistent with statutes and other provisions of law. No waiver from any mandatory requirement imposed by statute may be granted under this rule.

3.7(5) *Criteria for waiver.* In response to a petition, the director may, in the director's sole discretion, issue an order granting a waiver from a discretionary rule or a discretionary provision in a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person, if the director finds that the waiver is consistent with subrules 3.7(3) and 3.7(4) and if all of the following criteria are also met:

- a. The waiver would not prejudice the substantial legal rights of any person;
- b. The rule or provisions of the rule are not specifically mandated by statute or another provision of law;
- c. The application of the rule or rule provision would result in an undue hardship or injustice to the petitioner; and
- d. Substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule or rule provision for which the waiver is requested.

3.7(6) *Director's discretion.* The final decision to grant or deny a waiver shall be vested in the director. This decision shall be made at the sole discretion of the director based upon consideration of relevant facts.

3.7(7) *Burden of persuasion.* The burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the director should exercise discretion to grant the petitioner a waiver based upon the criteria contained in subrule 3.7(5).

3.7(8) *Form and contents of petition.*

a. *Department forms.* A petition for waiver may be filed using the form available on GovConnectIowa. Alternatively, a petition for waiver may be filed using the form or the GovConnectIowa petition link found on the department's website, revenue.iowa.gov.

b. *Manually created petitions.*

(1) Persons who do not use the filing methods outlined in paragraph 3.7(8) "a" shall use the following format to submit a petition for waiver:

DEPARTMENT OF REVENUE

Name of Petitioner	*	PETITION FOR
Address of Petitioner	*	WAIVER
	*	Docket No. _____
	*	

(2) A manually created petition for waiver must contain all of the following, where applicable and known to the petitioner:

1. The name, address, email address, telephone number, and case number or state identification number of the entity or person for whom a waiver is being requested;
2. A description and citation of the specific rule or rule provisions from which a waiver is being requested;
3. The specific waiver requested, including a description of the precise scope and operative period for which the petitioner wants the waiver to extend;
4. The relevant facts that the petitioner believes would justify a waiver. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts represented in the petition and a statement of reasons that the petitioner believes will justify a waiver;
5. A complete history of any prior contacts between the petitioner and the department relating to the activity or license affected by the proposed waiver, including audits, notices of assessment, refund claims, appeals, a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the activity within the last five years;
6. Any information known to the petitioner relating to the department's treatment of similar cases;
7. The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver;

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver;

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver;

10. Signed releases of information authorizing persons with knowledge of relevant facts to furnish the department with information relating to the waiver; and

11. The signature of the petitioner or the petitioner's representative and date of signature. It must also include the name, mailing address, and telephone number of the petitioner and of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed. Petitions submitted by a representative must have a valid IDR +power of attorney form or representative certification form, as applicable in accordance with rule 701—7.6(17A), on file with the department.

3.7(9) *Filing of petition.* A petition for waiver must be filed using one of the methods described in subrule 7.3(1).

3.7(10) *Additional information.* Prior to issuing an order granting or denying a waiver, the director may request additional information from the petitioner relating to the petition and surrounding circumstances. The director may, on the director's own motion, or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner or the petitioner's representative, or both, and the director to discuss the petition and surrounding circumstances.

3.7(11) *Notice of petition for waiver.* If notice to others is required by law, the petitioner shall provide, within 30 days of filing the petition for waiver, a notice consisting of a concise summary of the contents of the petition for waiver and stating that the petition is pending. Such notice shall be mailed by the petitioner to all persons entitled to such notice. Such persons to whom notice must be mailed include, but are not limited to, the director and all parties to the petition for waiver, or the parties' representatives. The petitioner must then file written notice to the department's legal services section by mail to the address listed in paragraph 7.3(1) "c" or by email to the address provided in paragraph 7.3(1) "b," attesting that the notice has been mailed. The names, addresses and telephone numbers of the persons to whom the notices were mailed shall be included in the filed written notice. The department has the discretion to give such notice to persons other than those persons notified by the petitioner.

3.7(12) *Ruling on a petition for waiver.* An order granting or denying a waiver must conform to the following:

a. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or rule provision to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the narrow and precise scope and operative time period of a waiver, if one is issued.

b. Conditions. The director may condition the grant of a waiver on any conditions that the director deems to be reasonable and appropriate in order to protect the public health, safety, and welfare.

3.7(13) *Time period for waiver; extension.* Unless otherwise provided, an order granting a petition for waiver will be effective for 12 months from the date the order granting the waiver is issued. Renewal of a granted waiver is not automatic. To renew the waiver beyond the 12-month period, the petitioner must file a new petition requesting a waiver. The renewal petition will be governed by the provisions in this rule and must be filed prior to the expiration date of the previously issued waiver or extension of waiver. Even if the order granting the waiver was issued in a contested case proceeding, any request for an extension shall be filed with and acted upon by the director. However, renewal petitions must request an extension of a previously issued waiver. Granting the extension of the waiver is at the director's sole discretion and must be based upon whether the factors set out in subrules 3.7(4) and 3.7(5) remain valid.

3.7(14) *Time for ruling.* The director shall grant or deny a petition for waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt unless the petitioner agrees in writing to a later date or the director indicates in a written order that it is impracticable to issue the order within the 120-day period.

3.7(15) *When deemed denied.* Failure of the director to grant or deny a waiver within the 120-day period or the extended time period shall be deemed a denial of that petition.

3.7(16) *Service of orders.* Within seven days of its issuance, any order issued under this rule shall 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.

3.7(17) *Recordkeeping.* The department is required to maintain a record of all petitions for waiver and rulings granting or denying petitions for waiver.

a. Petitions for waiver. The department shall maintain a record of all petitions for waiver available for public inspection. Such records will be indexed and filed and made available for public inspection.

b. Report of orders granting or denying a waiver. All orders granting or denying a waiver shall be submitted on the Internet site as prescribed in Iowa Code section 17A.9A.

3.7(18) *Cancellation of waiver.* A waiver issued pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice, the director issues an order finding any of the following:

a. The person who obtained 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, and no other means exist to protect the substantial legal rights of any person; or

c. The person who obtained the waiver has failed to comply with all of the conditions in the waiver order.

3.7(19) *Violations.* A violation of a condition in a waiver order shall be treated as a violation of the particular rule or rule provision for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule or rule provision at issue.

3.7(20) *Defense.* After an order granting a waiver is issued, the order shall constitute a defense, within the 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 unless subrules 3.7(18) and 3.7(19) are applicable.

3.7(21) *Hearing and appeals.*

a. Appeals from a decision granting or denying a waiver in a contested case proceeding shall be in accordance with the rules governing hearings and appeals from decisions in contested cases. These appeals shall be taken within 30 days of the issuance of the ruling granting or denying the waiver request, unless a different time is provided by rule or statute, such as provided in the area of license revocation (more information is contained in rule 701—7.26(17A)).

b. The provisions of Iowa Code sections 17A.10 through 17A.18A and rule 701—7.18(17A) regarding contested case proceedings shall apply to any petition for waiver of a rule or provisions in a rule filed within a contested case proceeding. A petition for waiver of a provision in a rule outside of a contested case proceeding will not be considered under the statutes or rule 701—7.18(17A). Instead, the director's decision on the petition for waiver is considered to be "other agency action."

This rule is intended to implement Iowa Code section 17A.9A.

These rules are intended to implement Iowa Code chapter 17A.

ITEM 4. Adopt the following new 701—Chapter 4:

CHAPTER 4 DECLARATORY ORDERS

701—4.1(99G,123,421,17A) *Applicability and scope of rules.* These rules implement the Iowa administrative procedure Act and aid in the effective and efficient administration and enforcement of the tax laws of this state and other activities of the department. These rules govern declaratory orders involving all areas within the department's jurisdiction. The rules in this chapter apply to all declaratory orders pending or commenced on or after their effective date. 701—Chapters 6 and 7 contain rules on contested cases within the department's jurisdiction. 701—Chapter 3 contains rules on rulemaking and rule waivers for all matters within the department's jurisdiction.

This rule is intended to implement Iowa Code chapter 17A.

701—4.2(99G,123,421,17A) Definitions. These definitions and the definitions provided in Iowa Code chapter 17A apply to this chapter unless the text states otherwise:

“*Declaratory order*” means an order issued pursuant to Iowa Code section 17A.9 and these rules.

“*Department*” or “*IDR*” means the Iowa department of revenue.

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

“*Entity*” means any person other than an individual or sole proprietorship.

“*GovConnectIowa*” means the e-services portal of the department.

“*Intervene*” means to file with the department a petition requesting that the petitioner be allowed to intervene in the proceedings for a declaratory order currently under the department’s consideration.

“*Issuance*” means the date specified in the decision or order, the date of mailing of a decision, or order or date of delivery of the decision or order if service is by other means.

“*Person*” means the same as defined in Iowa Code section 17A.2. “Public or private organization of any character or any other person covered by the Iowa administrative procedure Act other than an agency” as used in that definition includes estates, trusts, or fiduciaries.

“*Petition*” means an application for declaratory order or request to intervene in a declaratory order under consideration.

This rule is intended to implement Iowa Code chapter 17A.

701—4.3(99G,123,421,17A) How to submit declaratory orders or related documents; service. A person shall submit declaratory orders and related documents in accordance with 701—7.3(17A).

This rule is intended to implement Iowa Code chapter 17A.

701—4.4(99G,123,421,17A) Time requirements for filings. Time filing procedures are set forth in rule 701—7.4(17A).

This rule is intended to implement Iowa Code chapter 17A.

701—4.5(99G,123,421,17A) Form and style of documents. Requirements for filings are set forth in rule 701—7.5(17A).

This rule is intended to implement Iowa Code chapters 17A and 554D and sections 421.17 and 421.27A.

701—4.6(99G,123,421,17A) Docket. Every matter coming within the purview of this chapter is assigned a docket number that is the official identification number of the matter. The parties will be notified of the docket number. The number will be placed by the parties on all documents thereafter filed in the proceeding.

This rule is intended to implement Iowa Code chapter 17A.

701—4.7(99G,123,421,17A) Declaratory order—in general. Any oral or written advice or opinion rendered to members of the public by department personnel not pursuant to a petition for declaratory order is not binding upon the department.

4.7(1) Filing a petition for declaratory order.

a. *When a petition is considered filed.* A petition is deemed filed when it is received by the department as described in rule 701—7.4(17A). The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department with an extra copy for this purpose.

b. *Department forms.* A petition for declaratory order may be filed using the form available on GovConnectIowa. Alternatively, a petition for declaratory order may be filed using the form or the GovConnectIowa petition link found on the department’s website, revenue.iowa.gov.

c. *Manually created petitions.*

(1) Persons who do not use the filing methods outlined in paragraph 4.7(1)“b” shall use the following format to submit a petition for declaratory order:

DEPARTMENT OF REVENUE

Petition by (Name of Petitioner)	*	PETITION FOR
for a Declaratory Order on (Cite	*	DECLARATORY ORDER
provisions of law involved).	*	Docket No. _____
	*	

- (2) The petition must provide the following information:
1. A clear and concise statement of all relevant facts on which the order is requested;
 2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, the applicability of which is questioned, and any other relevant law;
 3. The questions the petitioner wants answered, stated clearly and concisely;
 4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers;
 5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome;
 6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity;
 7. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by, or interested in, the questions presented in the petition;
 8. Any request by the petitioner for a meeting provided for by this rule;
 9. Whether the petitioner is presently under audit or investigation by the department; and
 10. The signature of the petitioner or the petitioner's representative and date of signature. It must also include the name, mailing address, and telephone number of the petitioner and of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed. Petitions submitted by a representative must have a valid IDR power of attorney form or representative certification form, as applicable in accordance with rule 701—8.8(17A), on file with the department.

d. Standing. The petitioner must be potentially aggrieved or adversely affected by the department action or failure to act.

e. Associations. An association or a representative group is not considered to be an entity qualifying for filing a petition requesting a declaratory order on behalf of all of the association or group members. Each member of an association may not be similarly situated or represented by the factual scenario set forth in such a petition.

4.7(2) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the department shall give notice of the petition to all persons not served by the petitioner to whom notice is required by any provision of law. The department may also give notice to any other persons.

4.7(3) Intervention.

a. Nondiscretionary intervention. Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

b. Discretionary intervention. Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department.

c. Filing and form of petition for intervention. A petition for intervention shall be filed in accordance with 701—paragraph 7.3(1) "b," "c," or "d." Such a petition is deemed filed when it is received in accordance with rule 701—7.4(17A). The department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following format:

DEPARTMENT OF REVENUE

Petition by (Name of Original	*	PETITION FOR
Petitioner) for a Declaratory Order	*	INTERVENTION
on (Cite provisions of law cited in	*	Docket No. _____
original Petition).	*	

d. Contents. The petition for intervention must provide the following information:

- (1) Facts supporting the intervenor's standing and qualifications for intervention;
- (2) The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers;
- (3) Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome;
- (4) A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity;
- (5) The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented;
- (6) Whether the intervenor is presently under audit or investigation by the department;
- (7) A statement that the intervenor understands that if the department allows the intervention, the intervenor will be bound by the declaratory order; and
- (8) The signature of the intervenor or the intervenor's representative and date of signature. It must also include the name, mailing address, and telephone number of the intervenor and of the intervenor's representative and a statement indicating the person to whom communications should be directed. Petitions for intervention submitted by a representative must have a valid IDR power of attorney form or representative certification form, as applicable in accordance with rule 701—8.8(17A), on file with the department.

e. Standing. For a petition for intervention to be allowed, the petitioner must have consented to be bound by the declaratory order and the petitioner must have standing regarding the issues raised in the petition for declaratory order. Facts described in the petition for intervention must be those supporting intervention, not related to the substantive issues in the petition. The petition for intervention must not correct facts that are in the petition for declaratory order or raise any additional facts. To have standing, the intervenor must show that the intervenor is potentially aggrieved or adversely affected by the department action or failure to act on the interest at stake in the petition for declaratory order.

f. Factually distinct matters. If a party seeks to have an issue determined by intervening in a declaratory order proceeding, but the facts are different from those in a petition for declaratory order that is currently under consideration by the director, the interested party should not petition as an intervenor in the petition for declaratory order currently under the director's consideration. Instead, the party should file a separate petition for declaratory order, and the petition should include all of the relevant facts. The director may deny a petition for intervention without denying the underlying petition for declaratory order that is involved.

4.7(4) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised in the petition.

4.7(5) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Legal Services and Appeals Division, Iowa Department of Revenue, P.O. Box 14457, Des Moines, Iowa 50306-3457; or by email to the address provided in 701—paragraph 7.3(1) "b."

4.7(6) Service and filing of petitions and other papers.

a. When service is required. Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with its filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

b. Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed in the same manner described in rule

701—7.3(17A). All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department.

c. Method of service, time of filing, and proof of mailing. Method of service, time of filing, and proof of mailing shall be as provided in rules 701—7.3(17A) and 701—7.4(17A).

4.7(7) Department consideration.

a. Informal meetings. Upon request by the petitioner in the petition, the department may schedule a brief and informal meeting between the original petitioner; all intervenors; and the department, a member of the department, or a member of the staff of the department to discuss the questions raised.

b. Requests for additional information. The department may solicit additional information from the petitioner and establish a time frame for response. The department may also solicit comments or information from any other person on the questions raised. Also, comments or information on the questions raised may be submitted to the department by any person.

4.7(8) Withdrawal of the petition. The petitioner may voluntarily withdraw its petition by notifying the department in writing at any time before the order is issued. The petitioner may not withdraw the petition after the order is issued.

4.7(9) Action on petition.

a. Within 30 days after receipt of a petition for a declaratory order, the director shall take action on the petition. That action may include issuing an order, issuing a refusal, scheduling the issuance of a decision for a later date, or any other action described in Iowa Code section 17A.9(5).

b. The date of issuance of an order or of a refusal to issue an order is the date of mailing of the order or refusal or date of delivery if service is by other means.

4.7(10) Refusal to issue order.

a. Reasons for refusal to issue order. The department shall not issue a declaratory order where prohibited by Iowa Code section 17A.9 and may refuse to issue a declaratory order on some or all questions raised for any of the following reasons:

- (1) The petition does not substantially comply with the required form;
- (2) 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 an order;
- (3) The department does not have jurisdiction over the questions presented in the petition;
- (4) Questions or issues presented by the petition are also presented in a current audit or investigation, rulemaking, contested case, litigation, or other department or judicial proceeding that may definitively resolve them;
- (5) The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter;
- (6) The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order;
- (7) There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances;
- (8) 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;
- (9) The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner; or
- (10) The petitioner requests the department to determine whether a statute is unconstitutional on its face.

b. Action on refusal. A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final department action on the petition.

c. Filing of new petition. Refusal to issue a declaratory order pursuant to this rule does not preclude the filing of a new petition that seeks to eliminate the grounds for the department's refusal to issue an order.

4.7(11) *Contents of declaratory order, refusal; effective date.*

a. In addition to the ruling itself, a declaratory order or refusal must contain the date of its issuance, the name of the petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

b. A declaratory order is effective on the date of issuance.

4.7(12) *Copies of orders.* A copy of all orders issued in response to a petition for a declaratory order shall be delivered promptly to the original petitioner and all intervenors or otherwise served in accordance with rule 701—7.3(17A).

4.7(13) *Effect of a declaratory order.* A declaratory order is binding on the department, the petitioner, and any intervenors. 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 department action on the petition. A declaratory order, once issued, will not be rescinded by the department and cannot be withdrawn by the petitioner.

This rule is intended to implement Iowa Code section 17A.9.

These rules are intended to implement Iowa Code chapter 17A.

ITEM 5. Rescind 701—Chapter 5 and adopt the following new chapter in lieu thereof:

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

701—5.1(17A,22,99G,123,421-454) Definitions. As used in this chapter:

“Confidential record” means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include but are not limited to records or information contained in records that the department is prohibited by law from making available for examination by members of the public; records or information contained in records that are specified as confidential by Iowa Code section 22.7, 99G.34, or 123.38A, or other provision of law but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record; and confidential state tax information and federal tax information. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Confidential state tax information” means information that is protected from disclosure by Iowa Code sections 422.20, 422.72, 437A.14, 437B.10, 453B.10, 450.68, and 452A.63. Confidential state tax information includes but is not limited to state tax returns and return information. Confidential state tax information does not include federal tax information (FTI). If confidential state tax information is contained in a record, that record may also be considered a confidential record protected by Iowa Code chapter 22.

“Custodian” means the department, the director of revenue, the department’s public information officer, or a person lawfully delegated authority by the department to act for the department in implementing Iowa Code chapter 22.

“Department” means the Iowa department of revenue.

“Federal tax information” or *“FTI”* means return or return information received directly from the IRS or obtained through an authorized secondary source acting on behalf of the IRS pursuant to an IRC §6103(p)(2)(B) agreement. Copies of tax returns or return information provided to the department directly by a taxpayer or the taxpayer’s representative, including but not limited to tax returns or return information provided to the department through electronic filing as defined in 701—subrule 8.5(1), or obtained from public information files (e.g., federal tax liens on file with the county clerk, Offers in Compromise available for public inspection, and court records) are not considered FTI.

“GovConnectIowa” means the e-services portal of the department.

“IRC” means the Internal Revenue Code.

“IRS” means the Internal Revenue Service.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system. The term “personally identifiable information” includes “personal information” as defined in Iowa Code section 715C.1.

“Record” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department. Records include confidential records.

“Record system” means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual. A record system is a “system,” as defined below.

“Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. “Routine use” includes disclosures required by statute other than the public records laws codified at Iowa Code chapter 22.

“System” means any of the following:

1. Computer hardware or software;
2. Computerized processes and procedures;
3. Noncomputerized processes and procedures.

“Tax administration” means the administration, management, conduct, direction, and supervision of the execution and application of the state tax laws; means the development and formulation of state tax policy; and includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.2(17A,22,99G,123,421-454) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records and to facilitate sound department determinations with respect to the handling of confidential records and the implementation of Iowa Code section 22.11.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.3(17A,22,99G,123,421-454) Requests for public records.

5.3(1) Availability of records. Department records are open for public inspection and copying unless they are confidential or otherwise not subject to public inspection by rule or law. The department is not obligated to create a record if a requested record does not exist.

5.3(2) Methods for submitting a records request. Record requests shall be submitted using one of the following methods:

- a. *Mail.* Requests by mail should be addressed to: Public Information Officer, Iowa Department of Revenue, P.O. Box 10457, Des Moines, Iowa 50306.
- b. *Electronic submission.* Instructions for submitting requests electronically can be found on the department’s website: revenue.iowa.gov.
- c. *Hand delivery.* Requests should be hand-delivered to the department of revenue office on the first floor of the Hoover State Office Building, 1305 East Walnut St., Des Moines, Iowa.
- d. *Telephone.* Instructions for submitting requests by telephone can be found on the department’s websites: revenue.iowa.gov or ialottery.com.

5.3(3) Content of a records request.

- a. Requests shall identify the particular records sought by name or description and include the name, address, email, and telephone number of the person requesting the records.
- b. No reason need be given for requesting an open record. Department staff may request additional information from the requester for the purposes of clarification or identification of responsive records.

5.3(4) Response to requests. Records will be provided as soon as feasible. The custodian will promptly give notice to the requester of the reason for any delay in providing an open record and an estimate of the length of that delay and, upon request, will promptly provide that notice to the requester in writing. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 701—5.4(17A,22,99G,123,421-454) and other applicable provisions of law.

5.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records will be supervised by the custodian or a designee of the custodian. Records will be protected from damage and disorganization.

5.3(6) *Fees.*

a. When charged. The department may charge fees in connection with the search, retrieval, examination, and copying of requested records.

b. Copying and postage fees. Price schedules for published materials and for photocopies of records supplied by the department will be posted on the department's website. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Search, retrieval, and examination fee. An hourly fee may be charged for actual department expenses associated with the search, retrieval, and examination of requested records. The fee is based upon the pay scale of the employee involved and other actual costs incurred. The department provides the first two hours of search, retrieval, and examination of responsive records free of charge.

d. Estimated fee. Within a reasonable time after a request is made, the department will provide to the requester an estimated fee of the actual costs expected to be incurred by the department in fulfilling the request.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

f. Fee waivers. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.4(17A,22,99G,123,421-454) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons.

5.4(1) *Procedure.* In requesting the custodian to permit the examination and copying of such confidential records, the following procedures apply and are in addition to those specified for requests for access to records in rule 701—5.3(17A,22,99G,123,421-454).

a. Form of request. A person requesting access to confidential records shall submit the request in writing. The department may require the requester to provide additional documentation, including but not limited to proof of identity and authority to secure access to the record. The department may also require the requester to sign a certified statement or affidavit listing the specific reasons justifying access to the record and provide any proof necessary to establish relevant facts.

b. Response to request. The department will notify the requester of approval or denial of the request for access. The notice will include:

(1) The name and title or position of the person responding on behalf of the department; and

(2) If the request for access is denied, a brief statement of the grounds for denial including a citation to the applicable statute or other provision of law.

c. Request granted. When the department grants a request for access to a confidential record to a particular person, the department will notify that person and indicate any lawful restrictions imposed by the department on that person's inspection and copying of the record.

d. Reconsideration of denial. A requester whose request is denied by the department may apply to the director for reconsideration of the request.

5.4(2) *Notice to subject of record and opportunity to obtain an injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, or whose address or telephone number is contained in that record. To the extent

such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8 and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

5.4(3) *Requesting a copy of a return.* A taxpayer requesting a copy of the taxpayer's own tax return must do so via GovConnectIowa. There will be a \$5 charge for each return requested. Payment will be received prior to release of the return.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.5(17A,22,99G,123,421-454) Requests for treatment of a record as a confidential record and its withholding from examination. The department may treat a record as confidential and withhold it from examination only as authorized by Iowa Code sections 22.7, 99G.34, 123.38A, 422.20, and 422.72; other applicable provisions of law; or an order.

5.5(1) *Requests related to records submitted as part of an appeal or contested case.* Any person who seeks to request confidential treatment for any document submitted as part of an appeal or contested case filed under 701—Chapters 6 and 7 must file a motion for redaction as described in rule 701—7.8(17A).

5.5(2) *Requests for confidential treatment of any other record.* Any person who seeks to request confidential treatment of any record that has not been submitted as part of an appeal or contested case filed under 701—Chapters 6 and 7 must follow the following procedure:

a. Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

b. Request. A request that a record be treated as a confidential record and be withheld from public inspection shall:

- (1) Be in writing;
- (2) Be filed with the department using the one of the methods in subrule 5.3(2), excluding submission by telephone;
- (3) Set forth the legal and factual basis justifying such confidential record treatment for that record;
- (4) Include the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request;
- (5) Include a signed certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts;
- (6) Specify the precise period of time for which that treatment is requested;
- (7) If possible, include a copy of the record for which confidential record treatment is being sought with the request.

c. Failure to request. Failure to request confidential treatment for a record does not preclude the custodian from treating it as a confidential record unless otherwise provided by law. However, absent a request as outlined in this rule, the custodian of records may proceed as if there is no objection to the record's disclosure.

d. Timing of decision. The custodian may decide whether to disclose a record or a portion of a record to members of the public when a request for confidential record treatment is filed or when the custodian receives a request for access to the record by a member of the public.

e. Request granted or deferred. If a request for confidential record treatment is granted, or if action on a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record.

f. Request denied and opportunity to seek an injunction. If a request for confidential record treatment is denied, the custodian will notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable

delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record will not be withheld from public inspection for any period of time if the custodian determines that the requester has no reasonable grounds to justify the treatment of that record as a confidential record. The custodian will notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.6(17A,22,99G,123,421-454) Consensual disclosure of confidential records.

5.6(1) *Consent to disclosure by a subject.* To the extent permitted by law, the subject may consent in writing to department disclosure of confidential records as provided in rules 701—5.7(17A,22,421,422) and 701—7.6(17A,22,421,422).

5.6(2) *Complaints to public officials not an authorization—separate authorization required.* A letter from the 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 department is not, to the extent permitted by law, treated as an authorization to release sufficient information about the subject to the official to resolve the matter. The subject of a confidential record filing a complaint needs to submit a disclosure authorization as provided in rules 701—5.7(17A,22,421,422) and 701—8.8(17A,22,421,422).

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.7(17A,22,99G,123,421-454) Tax information disclosure designation.

5.7(1) *Powers authorized.* A taxpayer may designate an individual to receive, inspect, and discuss the taxpayer's confidential state tax information from the department. Such designation does not authorize the designee to act or authorize any action on the taxpayer's behalf in any way other than to receive information and communicate with the department. Information about transfers of decision-making authority is contained in Iowa Code section 421.59 and rule 701—8.8(17A,22,421,422).

5.7(2) *Contents of the tax information disclosure designation form.* A taxpayer must use the department's tax information disclosure designation form, or other designated method authorized by the department, to designate an individual to receive, inspect, and discuss confidential state tax information. A tax information disclosure designation form must contain the following information to be valid:

- a. Legal name and address of the taxpayer;
- b. Identification number of the taxpayer (i.e., social security number (SSN), federal identification number (FEIN), or any federal- or Iowa-issued tax identification number);
- c. The designee's name, mailing address, and identification number (i.e., preparer's tax identification number (PTIN), FEIN, SSN, individual taxpayer identification number (ITIN), or Iowa department of revenue-issued account number (IAN)). In lieu of a designee's identification number, a taxpayer may indicate that an IAN is being requested for the designee;
- d. Description of the matter(s) for which disclosure is authorized, which may include:
 - (1) The type of tax(es) involved or an indication that all tax types are within the scope of disclosure;
 - (2) The specific year(s) or period(s) involved or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date); and
 - (3) Business tax permit number or an indication that all tax types are within the scope of authority;
- e. A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 5.7(1);
- f. An authorized signature of an individual listed in subrule 5.7(4) meeting the requirements of rule 701—8.2(17A,421);
- g. Any other information required by the department.

5.7(3) *Authorization period for a tax information disclosure designation.*

a. A tax information disclosure designation may not be used to authorize disclosure for tax periods that end more than three years after the date on which the tax information disclosure designation is signed by the taxpayer. A tax information disclosure designation may concern an unlimited number of tax periods that have ended prior to the date on which the tax information disclosure designation is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax periods section is left blank, all tax periods, including those ending up to three years in the future, are included.

b. A tax information disclosure designation continues to be effective for tax periods as defined in paragraph 5.7(3)“*a*” until revocation by the taxpayer; incapacity of the taxpayer; death of the taxpayer; or withdrawal, death, or incapacity of the tax information disclosure designee.

5.7(4) *Individuals who may execute a tax information disclosure designation.* The individual(s) who may execute a tax information disclosure designation depends on the type of taxpayer involved:

a. Individual. In matters involving an individual taxpayer, a tax information disclosure designation must be signed by the individual.

b. Joint or combined returns. In matters involving a joint return or married taxpayers who have elected to file separately on a combined return, each taxpayer must complete and submit a tax information disclosure designation form for the joint return.

c. Third parties. The tax information disclosure designation form may be signed by an individual who has been authorized to act on behalf of the taxpayer under Iowa Code section 421.59.

5.7(5) *Revocation and withdrawal.**a. Revocation by the taxpayer.*

(1) By written statement. By filing a statement of revocation with the department, a taxpayer may revoke a tax information disclosure designation without authorizing a new representative. The statement of revocation must include the following:

1. Name, address, and identification number of the taxpayer (i.e., SSN, FEIN, or any federal- or Iowa-issued tax identification number);

2. Name, address, and identification number (i.e., PTIN, FEIN, SSN, ITIN, or IAN) of the designee whose designation is to be revoked;

3. A clear statement to revoke the designee’s disclosure designation; and

4. Signature of an authorized signatory as described in subrule 5.7(4).

(2) Does not automatically revoke. A new tax information disclosure designation for a particular tax type(s) and tax period(s) does not revoke a prior tax information disclosure designation for any tax type(s) and tax period(s) unless the taxpayer has indicated in a written submission to the department that a prior tax information disclosure designation is to be revoked.

b. Withdrawal by the designee. By filing a statement with the department, a designee may withdraw from the designation in a matter in which a tax information disclosure designation has been filed. The statement must include the following:

(1) Name, address, and identification number of the taxpayer (i.e., SSN, FEIN, or any federal- or Iowa-issued tax identification number);

(2) Name, address, and tax identification number (i.e., PTIN, FEIN, SSN, ITIN, or IAN) of the designee whose designation is to be withdrawn;

(3) A clear statement that the designee wishes to withdraw;

(4) Signature of withdrawing designee and signature date.

5.7(6) *Submitting a form.*

a. Submit separately. A tax information disclosure designation form may not be submitted as an attachment to a tax return except as provided by these rules. A tax information disclosure designation must be submitted separately to the department in accordance with the submission instructions on the form. However, the department may, at its discretion, provide a method for authorizing disclosure on the face of a tax return as defined in Iowa Code section 421.6.

b. Original or electronic forms accepted. The department will accept either the original, a copy, or an electronically scanned and transmitted form. A copy received by facsimile transmission (fax) or email

will be accepted. All forms, whether original copy, received via fax, or electronically scanned and transmitted forms must include a valid signature meeting the requirements of rule 701—8.2(17A,421) of the taxpayer to be represented.

c. Timely submission. If the form is not submitted within six months of the date it is signed, it will be considered invalid.

d. Evaluation of documentation provided. The department will evaluate the tax information disclosure designation form and any additional documentation to confirm authorization. Authorization to receive, inspect, and discuss confidential state tax information from the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authorization to receive, inspect, and discuss confidential state tax information from the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authorization.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.8(17A,22,99G,123,421-454) Disclosures without the consent of the subject. Open records and certain confidential records may be disclosed by the department without the consent of the subject.

5.8(1) Disclosure of nonconfidential records. All nonconfidential records may be disclosed without the consent of the subject.

5.8(2) Disclosure of confidential records that do not contain confidential state tax information. Certain confidential records that do not contain confidential state tax information may be disclosed without the consent of the subject. The following disclosures will generally occur without notice to the subject:

a. For routine use. The following nonexclusive list of uses are considered routine:

(1) Disclosure to those officers, employees, and agents of the department who have a legitimate need for the record in the performance of their duties. The custodian of the record may, upon the request of any officer or employee, or upon the custodian's own initiative, determine what constitutes a legitimate need;

(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory action;

(3) Information released to federal and state entities for audit purposes for purposes of determining whether the department is operating lawfully;

(4) Any disclosure specifically authorized by statute.

b. To a recipient who has provided the department with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request pursuant to rule 701—5.4(17A,22,99G,123,421-454) to the department specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual. Confidential information will be disclosed pursuant to this paragraph only after notice is sent by the department to the last-known address of the subject of the confidential information.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a lawful court order or subpoena.

5.8(3) Disclosure of confidential state tax information.

a. Permitted disclosures. Confidential state tax information may be disclosed without the consent of the subject only to the extent that it is expressly permitted by law. The following is a nonexclusive list of permitted disclosures:

(1) Disclosures to other agencies, employees, or officials of this state to the extent necessary for the performance of their official duties and responsibilities pursuant to Iowa Code section 422.72(1) “b.” Such information will only be disclosed upon the express written approval of the director of revenue or the director’s designee. Written approval will be granted in only those situations where the information obtained is used for a tax administrative purpose and will cover the conditions and procedures under which specific information will be released.

(2) Disclosures permitted by statute for purposes other than tax administration. Such disclosures may be made without a tax administrative purpose unless the authorizing statute provides otherwise.

(3) Disclosures to the federal government and agencies of other states so long as the disclosures are made for a tax administrative purpose and are made only to officers of those jurisdictions which by agreement limit the disclosure of the information as strictly as the laws of Iowa protecting the confidentiality of returns and return information.

(4) Disclosure pursuant to subpoena as outlined in Iowa Code section 422.72(7).

(5) Disclosure pursuant to Iowa Code section 421.19 regardless of whether such disclosure is made for a tax administration purpose.

b. Penalties for unlawful disclosure of confidential state tax information. Any officer, employee, agent, former officer, former employee, or former agent of the state of Iowa who engages in any of the following activities commits a serious misdemeanor:

(1) Knowingly files a false affidavit with the department to secure confidential state tax information;

(2) Willfully or recklessly divulges, prints, publishes, inspects or permits unauthorized examination of confidential state tax information in violation of Iowa Code sections 422.20 and 422.72 or divulges information received under this rule in any manner prohibited by this rule.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.9(17A,22,99G,123,421-454) Release to subject or owner of record.

5.9(1) The subject of a record may request to review the subject’s own records by following the procedures in rules 701—5.3(17A,22,99G,123,421-454) and 701—5.4(17A,22,99G,123,421-454). However, the department need not release the following records to the subject:

a. Communications to the department that are protected from disclosure under Iowa Code section 22.7(18). Such protected communications include responses to questionnaires solicited by the department that relate to tax administration.

b. Records that are a work product of an attorney or are otherwise privileged.

c. Peace officers’ investigative reports, except when disclosure is required by law.

d. Any other records that may be withheld by law.

5.9(2) Where a requested record contains information on multiple subjects, the department may take reasonable steps to protect confidential information relating to the subject or subjects that did not make the request when releasing the record to the requesting subject.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.10(17A,22,99G,123,421-454) Personally identifiable information collected and stored by the department. The department collects and maintains both open records and confidential records that contain personally identifiable information. This rule describes the nature, extent, retrieval, storage, and processing of personally identifiable information within the department’s record systems.

5.10(1) *Nature and extent.* All record systems maintained by the department may contain personally identifiable information concerning matters such as income, property holdings, exchanges, financial transactions, licensing, contested case matters, waivers of rule and declaratory rulings, procurement and leases, bailment shipments, lottery prize claims, lottery sales commission payments, audit and examination, litigation, personnel, and demographic information such as address and number of dependents.

5.10(2) *Retrieval.* Personal identifiers are used to retrieve information from any of the record systems that the department maintains that contain personally identifiable information.

5.10(3) Means of storage. Paper, microform, and various electronic means of storage are used to store records containing personally identifiable information.

5.10(4) Comparison. Electronic or manual data processing may be used to match, to collate, or to compare personally identifiable information in one system with personally identifiable information in another system of records or with personally identifiable information within the same system.

5.10(5) Comparison with data from outside the department. Personally identifiable information in systems of records maintained by the department may be compared with information from outside the department when specified by law. Permitted comparisons include but are not limited to comparisons for the purpose of setoffs.

5.10(6) Records containing personally identifiable information.

a. Personally identifiable information is collected from documents, returns, and any other record filed with the department, as well as from outside sources, including state and federal agencies. Authority to collect this information is found throughout Iowa Code chapters 8A, 17A, 99G, and 123, as well as Title X of the Iowa Code. The chart below describes department records that contain personally identifiable information and identifies which records are open records, confidential records, partially open or partially confidential. A single record may contain information from several categories in the chart. This information is compiled for the purposes of Iowa Code section 22.11.

Code.....Meaning

O.....The records are open for public inspection.

C.....The records are confidential and are not open to public inspection.

O/C.....The record is partly open and partly confidential.

Description of Record	Type of Record	Legal Authority for Confidentiality
State tax returns, return information, permit records, tax liability and penalty records, tax policy, tax research records, and all related records	O/C	Iowa Code Title X, including Iowa Code sections 422.20 and 422.72
Nontax collection records	O/C	Iowa Code Title X, including Iowa Code sections 422.20 and 422.72, and contractual authority
Federal tax returns and return information	C	26 U.S.C. Section 6103
Department personnel records, communication records, budget records, and payroll records	O/C	Iowa Code sections 22.7 and 99G.34(2)
Minutes of closed meetings of a government body	C	Iowa Code section 21.5(4)
Records that constitute attorney work product or attorney-client communications or are otherwise privileged	C	Iowa Code section 22.7(4), Iowa Rule of Civil Procedure 1.503, Federal Rule of Civil Procedure 26(b)(3), and case law
Sealed bids	O/C	Iowa Code section 72.3
Final orders, decisions, and opinions	O/C	Iowa Code section 17A.3(1)“d”
License and permit records	O/C	Iowa Code section 99G.24, chapter 123, and Title X
Investigation, audit, and examination records	O/C	Iowa Code sections 99G.34(4), 99G.35, 123.38A, 422.20, and 422.72
Lottery player and winner lists	O/C	Iowa Code sections 99G.34(2), 99G.34(5), and 99G.41(3)
Lottery retailer compensation payments	O/C	Iowa Code sections 99G.24(2), 99G.34(2), and 99G.41(5)

b. The procedure for public records request may be found in rule 701—5.3(17A,22,99G,123,421-454).

c. The procedure for allowing a person to have additions, dissents, or objections entered in the record will be determined on a case-by-case basis.

d. The subject of the confidential record may either request the record independently and give it to the named third party or authorize the third party to request the subject’s confidential information under Iowa Code section 421.59, 422.20(7), or 422.72(9).

e. The department will utilize information, including confidential information, in executing its duties under the Iowa Code. Subjects of the information will not be notified when the information is

used. Persons outside of the department receiving confidential information are held to the same confidentiality standard as departmental employees. Whether information is required or optional will be indicated along with the request for information. Failing to provide required information may result in penalties or interest being charged.

f. The department utilizes more than one data processing system, and information is matched between systems.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.11(17A,22,99G,123,421-454) Retention of submitted documents. When the subject or owner of a record has submitted a document to the department, the department will store the document in the same manner that it stores other records of a similar nature. Documents submitted to the department may be destroyed by the department at the conclusion of the applicable time period detailed in the department's record retention schedules unless destruction is otherwise prohibited by law. The department discourages submitting original documents in situations where an original is not required. If an original document must be submitted, the person submitting the document shall indicate conspicuously that the document is an original and shall also indicate whether that person requests that the original be returned at the conclusion of its use by the department.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

701—5.12(17A,22,99G,123,421-454) Limited applicability. This chapter does not:

1. Mandate that the department index or retrieve records that contain information about an individual by that person's name or other personal identifier.
2. Make available to the general public records that would otherwise not be available under Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of, or access to records in possession of the department that are governed by regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs unless otherwise provided by law or agreement.
5. Make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings are governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

This rule is intended to implement Iowa Code chapters 17A, 22, 99G, 123, and 421 through 454.

ITEM 6. Rescind 701—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6

CONTESTED CASES RELATED TO ALCOHOL AND LOTTERY PROCEEDINGS

701—6.1(99G,123,17A) Scope and applicability. This chapter applies to contested case proceedings conducted pursuant to the department's authority under Iowa Code chapter 99G or 123.

701—6.2(99G,123,17A) Definitions. Except where otherwise specifically defined by law:

"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 pursuant to Iowa Code section 17A.10A.

"Department" means the Iowa department of revenue.

"Director" means the director of the department or the director's designee.

"Hearing complaint" means a statement in writing filed by, or on behalf of, the department; a local authority having jurisdiction; or the department of public safety that sets forth the acts or omissions with which the respondent is charged, including the statute(s) and rule(s) that are alleged to have been violated under Iowa Code chapter 123. The hearing complaint shall be in sufficient detail to enable the preparation of the respondent's defense.

“Issuance” means the date of mailing or otherwise electronically providing a copy of a decision or order, or the 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.

“Pleadings” means appeal, answer, reply or other similar document filed in a contested case proceeding, including contested cases involving no factual dispute.

“Presiding officer” means the director, the director’s designee, or an administrative law judge from the department of inspections, appeals, and licensing.

“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the director did not preside.

701—6.3(99G,123,17A) Time requirements. Time requirements for the department are provided in rule 701—7.4(17A).

701—6.4(99G,123,17A) Requests for a contested case proceeding.

6.4(1) Any person claiming an entitlement to a contested case proceeding shall file a written request within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency action in question.

6.4(2) The request for a contested case proceeding should state the name and address of the requester, identify the specific agency action that is disputed and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

701—6.5(99G,123,17A) Notice of hearing.

6.5(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.
- d. In accordance with rules provide by the department of inspections, appeals, and licensing, as provided for by Iowa Code section 10A.802(4).

6.5(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, 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 matters asserted. If the department or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the department or the state and of parties’ counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding.

701—6.6(99G,123,17A) Presiding officer.

6.6(1) Administrative law judge. The director may appoint an administrative law judge as presiding officer in all contested case hearings pursuant to Iowa Code chapter 99G or 123.

6.6(2) Appeal. 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 director. A party must seek any available intra-agency appeal to exhaust adequate administrative remedies.

6.6(3) Director’s review. Unless otherwise provided by law, the director, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of, and shall comply with the provisions of, this chapter that apply to presiding officers.

701—6.7(99G,123,17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the department in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

701—6.8(99G,123,17A) Telephone or video proceedings. The presiding officer may resolve preliminary procedural motions by telephone or videoconference in which all parties have an opportunity to participate. Other telephone or video proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone or video hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

701—6.9(99G,123,17A) Consolidation—severance. Consolidation and severance procedures for the department are provided in 701—subrule 7.18(12).

701—6.10(99G,123,17A) Pleadings.

6.10(1) Pleadings. Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

6.10(2) Alcohol-related hearing complaint.

a. The department, a local authority having jurisdiction, or the department of public safety may give written notice of the cause for action in the form of a hearing complaint and an opportunity for a hearing to a licensee, permittee, or holder of a certificate of compliance for any of the following:

- (1) A violation of Iowa Code chapter 123.
- (2) A violation of the department's administrative rules.
- (3) Failure to comply with an order issued by the department.
- (4) Failure to fully cooperate during an investigation, audit, or inspection of the licensee; permittee; or certificate holder, including failure to respond to an inquiry within ten business days of the date of mailing by certified mail, return receipt requested, of a written request for information or records directed to the licensee's, permittee's, or certificate holder's last address on file with the agency.

b. A hearing complaint shall state in separately numbered paragraphs the following:

- (1) The persons or entities on whose behalf the hearing complaint is filed;
- (2) The particular provisions of statutes and rules involved;
- (3) The relief demanded and the facts and law relied upon for such relief; and
- (4) The name, address, and telephone number of the petitioner and the petitioner's attorney, if any.

c. A hearing complaint alleging a violation of Iowa Code chapter 123 must be filed with the department or the local authority within three years from the date of the alleged violation or the date of conviction for the violation, whichever is later.

6.10(3) Answer.

a. An answer shall be filed within 20 days of service of the hearing complaint unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

b. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

c. An answer shall 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.

d. Any allegation in the hearing complaint 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.

6.10(4) Amendment. Any notice of hearing, hearing complaint, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

701—6.11(99G,123,17A) Service and filing of pleadings and other papers.

6.11(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency, 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.

6.11(2) *Service—how made.* Service upon a party represented by an attorney shall 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 or by electronic service as permitted by the presiding officer and the Iowa Rules of Civil Procedure. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order, so long as there is proof of mailing.

6.11(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the presiding officer. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the presiding officer.

6.11(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the presiding officer, delivered to an established courier service for immediate delivery to the presiding officer, or mailed by first-class mail or state interoffice mail to the presiding officer, so long as there is proof of mailing. Parties may file documents by electronic transmission. Filing by electronic transmission is complete upon transmission unless the party making the filing learns that the attempted filing did not reach the presiding officer.

6.11(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 (department or presiding officer 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)

701—6.12(99G,123,17A) Discovery.

6.12(1) *Discovery procedures.* Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

6.12(2) *Discovery motions.* Any motion 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. Discovery motions 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 shortened as provided in this chapter. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

6.12(3) *Evidence.* Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

701—6.13(99G,123,17A) Subpoenas.**6.13(1)** *Issuance.*

a. Department subpoenas. A department subpoena shall be issued to a party on request. Subpoenas may compel the attendance of witnesses at deposition or hearing and the production of books, papers, records, and other real evidence unless they are otherwise expressly exempt from disclosure by law. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or each command may be issued separately. Subpoenas shall be issued by the presiding officer upon a written request. Such a request must be in writing. In the absence of good cause

for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Service of subpoenas. 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.

6.13(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 shall be set for argument promptly.

701—6.14(99G,123,17A) Motions.

6.14(1) *Prehearing motions.* No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

6.14(2) *Written responses.* Any party may file a written response to a motion within ten days after the motion is served unless the time period is extended or shortened by applicable administrative rules or by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

6.14(3) *Oral argument.* The presiding officer may schedule oral argument on any motion.

6.14(4) *Service.* Motions pertaining to the hearing, except 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 an applicable rule of the department or an order of the presiding officer.

6.14(5) *Motions for summary judgment.*

a. Motions for summary judgment are subject to Iowa Rules of Civil Procedure 1.981, 1.982, and 1.983 but only to the extent consistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

b. Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date or other time period determined by the presiding officer. Any party resisting the motion may file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission will be at least 20 days after the filing of the motion unless the presiding officer orders a shorter time.

c. A summary judgment order rendered on all issues in a contested case is subject to rehearing and appeal in accordance with this chapter.

701—6.15(99G,123,17A) Prehearing conference. Prehearing conference requirements are set forth in 701—7.17(17A).

701—6.16(99G,123,17A) Continuances. Unless otherwise provided, applications for continuances are made to the presiding officer.

6.16(1) *Application for continuance.* A written application for a continuance should:

a. Be made at the earliest possible time and no less than three days before the hearing, except for a good cause showing;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless the presiding officer waives that requirement. No application for continuance may be made or granted without notice to all parties except in an emergency where notice is not feasible. The department may waive notice of such requests for a particular case or an entire class of cases.

6.16(2) *Issuing of continuance.* In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance. Notwithstanding the foregoing, each party is entitled to one continuance without the need of a good cause showing unless a continuance would cause the contested case proceeding to exceed a time limit set forth in another applicable statute or rule.

701—6.17(99G,123,17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing.

701—6.18(99G,123,17A) Intervention.

6.18(1) Motion. A motion for leave to intervene in a contested case proceeding states 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 shall 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.

6.18(2) When filed. Motion for leave to intervene should 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 shall 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 is 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.

6.18(3) Grounds for intervention. The movant should 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.

6.18(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.

701—6.19(99G,123,17A) Hearing procedures.

6.19(1) Role of presiding officer. 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.

6.19(2) Objections. All objections shall be timely made and stated on the record.

6.19(3) Representative of parties. Parties have the right to participate or to be represented in all hearings related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

6.19(4) Role of parties. 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.

6.19(5) *Decorum of hearing.* The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

6.19(6) *Sequestering of witnesses.* Witnesses may be sequestered during the hearing.

6.19(7) *Conduct of hearing.* The presiding officer conducts the hearing in the following manner:

a. The presiding officer gives an opening statement briefly describing the nature of the proceedings;

b. The parties are given an opportunity to present opening statements;

c. Parties present their cases in the sequence determined by the presiding officer;

d. Each witness is sworn or affirmed by the presiding officer or the court reporter and is 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.

701—6.20(99G,123,17A) Evidence.

6.20(1) *Admissibility.* The presiding officer rules on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

6.20(2) *Stipulation of facts.* Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

6.20(3) *Scope of evidence.* Evidence in the proceeding should be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

6.20(4) *Admission and examination.* 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 be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

6.20(5) *Objection.* Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall 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 shall 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.

6.20(6) *Offer of service.* 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 shall 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 shall be marked as part of an offer of proof and inserted in the record.

701—6.21(99G,123,17A) Default. Default procedures for the department are set forth in 701—subrule 7.18(7).

701—6.22(99G,123,17A) Ex parte communication and disqualification. Ex parte communication and disqualification matters requirements are set forth in rule 701—7.22(17A).

701—6.23(99G,123,17A) Recording costs. Recording cost requirements are provided in rule 701—7.20(17A).

701—6.24(99G,123,17A) Interlocutory appeals. Interlocutory appeal procedures for the department are set forth in 701—subrule 7.18(11).

701—6.25(99G,123,17A) Final decision.

6.25(1) *Director's final decision.* When the director presides over the reception of evidence at the hearing, the director's decision is a final decision.

6.25(2) *Proposed decision.* When the director does not preside at the reception of evidence, the presiding officer makes a proposed decision. The proposed decision becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the director within the time provided in rule 701—6.26(99G,123,17A).

701—6.26(99G,123,17A) Appeals and review.

6.26(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the director within 30 days after issuance of the proposed decision.

6.26(2) *Review.* The director may initiate review of a proposed decision on the director's own motion at any time within 30 days following the issuance of such a decision.

6.26(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the department. 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 shall 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.

6.26(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 director may remand a case to the presiding officer for further hearing or the director may preside at the taking of additional evidence.

6.26(5) *Scheduling.* The director shall issue a schedule for consideration of the appeal.

6.26(6) *Briefs and arguments.* Unless otherwise ordered, within 30 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 30 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The director may resolve the appeal on the briefs or provide an opportunity for oral argument. The director may shorten or extend the briefing period as appropriate.

701—6.27(99G,123,17A) Applications for rehearing. Procedures to apply for rehearing for the department are set forth in rule 701—7.21(17A).

701—6.28(99G,123,17A) Stays of agency actions.

6.28(1) *When available.*

a. *Department appeal.* Any party to a contested case proceeding may petition the department for a stay of an order issued in that proceeding or for other temporary remedies, pending review. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The director may rule on the stay or authorize the presiding officer to do so.

b. *Stay or temporary remedy.* Any party to a contested case proceeding may petition the department for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

6.28(2) *When granted.* In determining whether to grant a stay, the director shall consider the following factors:

- a. The extent to which the applicant is likely to prevail when the court finally disposes of the matter.

- b. The extent to which the applicant will suffer irreparable injury if relief is not granted.
- c. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings.
- d. The extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstances.

6.28(3) *Vacation.* A stay may be vacated by the issuing authority upon application of any party.

701—6.29(99G,123,17A) 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 of 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 found under subrule 6.14(5).

701—6.30(99G,123,17A) Emergency adjudicative proceedings.

6.30(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 department may issue a written order in compliance with Iowa Code section 17A.18A 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 department by emergency adjudicative order. Before issuing an emergency adjudicative order the department shall consider factors, including but not limited to the following:

- a. Whether there has been a sufficient factual investigation to ensure that the agency 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 is necessary to avoid the immediate danger.

6.30(2) *Issuance of order.*

a. *Contents.* An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action.

b. *Service.* The written emergency adjudicative order shall 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; or
- (2) Certified mail, return receipt requested, to the last address on file with the agency.

c. *Delivery.* To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

6.30(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

6.30(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger. After issuance of an emergency adjudicative order, continuance of further agency proceedings will be granted only in compelling circumstances upon application in writing.

701—6.31(99G,123,17A) Informal settlement. A party to a controversy that may culminate or has culminated in contested case proceedings may attempt informal settlement by complying with the procedures set forth in this rule. No party is required to settle the controversy or contested case by submitting to informal settlement procedures.

6.31(1) Parties desiring informal settlement are to set forth in writing the various points of a proposed settlement, including findings of facts.

6.31(2) When signed by the parties and approved by the director, a settlement shall represent final disposition of the matter.

6.31(3) A proposed settlement that is not accepted or signed by the parties and the director shall not be admitted as evidence in the record of a contested case proceeding. Evidence of conduct or statements made in settlement negotiations likewise are not admissible. This rule does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

This rule is intended to implement Iowa Code section 17A.10.

These rules are intended to implement Iowa Code chapter 17A.

ITEM 7. Rescind 701—Chapter 7 and adopt the following new chapter in lieu thereof:

CHAPTER 7 TAX APPEALS, TAXPAYER REPRESENTATION, AND OTHER ADMINISTRATIVE PROCEDURES

701—7.1(421,17A) Applicability and scope of rules. These rules implement the Iowa administrative procedure Act and aid in the effective and efficient administration and enforcement of the laws of this state and other activities of the department. These rules govern the practice, procedure, and conduct of the informal proceedings, contested case proceedings, and certain other administrative procedures within the department's jurisdiction. The rules in this chapter apply to all informal proceedings, contested case proceedings, licensing proceedings pending or commenced on or after their effective date; however, 701—Chapter 6 applies to appeals and contested case proceedings for matters under Iowa Code chapters 123 and 99G. 701—Chapter 3 contains rules on rulemaking for all matters within the department's jurisdiction. 701—Chapter 4 contains rules on declaratory order for all matters within the department's jurisdiction.

This rule is intended to implement Iowa Code chapter 17A.

701—7.2(421,17A) Definitions. Terms not defined below have the same meaning as defined in Iowa Code chapter 17A. Unless otherwise specifically stated, the terms used in these rules promulgated by the department have the meanings defined by the Act. These definitions apply to this chapter unless the text states otherwise:

“Act” means the Iowa administrative procedure Act.

“Appeal” means a dispute of a notice of assessment, refund denial, or other department action that may culminate in a contested case proceeding. *“Protest”* has the same meaning as appeal.

“Appeals section” means the section of the department designated by the director to administer the informal stage of the tax appeals process and participate in contested case proceedings for appeals before the department.

“Clerk” means the clerk of the legal services and appeals division or the clerk's designee.

“Department” or *“IDR”* means the Iowa department of revenue.

“Director” means the director of the department or the director's designee.

“Division of administrative hearings” means the division of the department of inspections, appeals, and licensing responsible for holding contested case proceedings pursuant to Iowa Code chapter 10A.

“Entity” means any taxpayer other than an individual or sole proprietorship.

“GovConnectIowa” means the e-services portal of the department.

“Informal stage” means the procedures of the appeals process described in rule 701—7.10(17A).

“Issuance” means the date specified in the decision or order, the date of mailing of a decision, or order or date of delivery of the decision or order if service is by other means.

“Last-known address” means the last address associated with a taxpayer by tax type, as determined pursuant to rule 701—7.23(421).

“Motion” means the same as defined in Iowa Rule of Civil Procedure 1.431.

“Party” means the same as defined in Iowa Code section 17A.2(8) and includes intervenors.

“Person” means the same as defined in Iowa Code section 17A.2. “Public or private organization of any character or any other person covered by the Act other than an agency” as used in that definition includes estates, trusts, or fiduciary.

“Petition” means application for declaratory order; request to intervene in a declaratory order under consideration; or application for initiation of proceedings to adopt, amend or rescind a rule or document filed in licensing.

“Pleadings” means appeal, answer, reply or other similar document filed in a contested case proceeding, including contested cases involving no factual dispute.

“Presiding officer” means the person designated to preside over a proceeding involving the department. A presiding officer of a contested case involving the department will be either the director or a qualified administrative law judge appointed, pursuant to Iowa Code chapter 17A, by the division of administrative hearings established pursuant to Iowa Code section 10A.801. In cases in which the department is not a party, at the director’s discretion, the presiding officer may be the director or the director’s designee. The presiding officer of an administrative appeal is the director of the department.

“Proceeding” means informal, formal, and contested case proceedings.

“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the director did not preside, as described in Iowa Code section 17A.15.

“Review unit” means the unit composed of the appeals section of the department and any of the attorney general’s staff who have been assigned to review appeals filed by taxpayers.

“Taxpayer interview” means any in-person contact between an employee of the department and a taxpayer or a taxpayer’s representative that has been initiated by a department employee.

“Taxpayer’s representative” or *“taxpayer’s authorized representative”* means an individual authorized to practice before the department on behalf of a taxpayer under Iowa Code section 421.59; an individual who has been named as an authorized representative on a fiduciary return of income form filed under Iowa Code section 422.14 or a tax return filed under Iowa Code chapter 450 or 450B; or for proceedings before the department, any other individual the taxpayer designates who is named on a valid power of attorney if appearing on behalf of another.

This rule is intended to implement Iowa Code chapter 17A.

701—7.3(17A) How to submit an appeal, petition or related documents; service. Appeals, petitions, and other documents governed by this chapter may be filed electronically, by mail, or in person, in accordance with the limits described below. The headquarters of the department in the Hoover State Office Building in Des Moines, Iowa, will generally be open between the hours of 8 a.m. and 4:30 p.m. daily, except Saturdays, Sundays, and holidays as defined in Iowa Code section 421.9A.

7.3(1) Ways to submit an appeal, petition, or related document. Unless otherwise specified in another rule in this chapter, a person may submit an appeal, petition, related document, or document filed during an appeal or pending petition:

a. By submitting through GovConnectIowa. As of November 12, 2024, GovConnectIowa is available for filing petitions for declaratory order, petitions for rulemaking, and petitions for rule waiver for all tax types as well as for lottery and alcohol matters but is only available for filing appeals for the following tax types: sales, use, E911, withholding, motor vehicle fee for new registration, vehicle lease, cigarette, tobacco products, alternative nicotine, vapor device, vapor products, drug stamp, utility replacement, central assessments, statewide property, motor fuel, hotel/motel, local option sales, automobile rental, water service excise, individual income, fiduciary income, corporation income, S

corporation income, partnership income, composite, franchise, inheritance, moneys and credits, and tax credits and distributions associated with these tax types.

b. By email to idrhearings@iowa.gov.

c. By mail to Legal Services and Appeals Division, Iowa Department of Revenue, P.O. Box 14457, Des Moines, Iowa 50306-3457.

d. By hand delivery to the department's customer service desk in the Hoover State Office Building, First Floor, 1305 East Walnut Street, Des Moines, Iowa 50319, during regular business hours.

7.3(2) *Filings with the division of administrative hearings and service upon the department during contested case proceedings.* All documents or papers required or permitted to be filed with an administrative law judge appointed by the division of administrative hearings to be a presiding officer in a contested case shall be filed in accordance with rule 481—10.12(17A). All papers or documents required or permitted by this chapter to be filed with the department or the director and served upon the opposing party or other person in a contested case shall be served by ordinary mail unless another rule specifically refers to another method.

7.3(3) *Service by the department.* All notices or documents required or permitted by this chapter to be served on parties or persons by the department or presiding officer that are not currently pending before an administrative law judge shall be served by ordinary mail unless the taxpayer has elected to receive communications exclusively through GovConnectIowa, pursuant to rule 701—8.6(421). For taxpayers registered in GovConnectIowa, posting the document in the taxpayer's GovConnectIowa account constitutes service or notice of the document. For taxpayer representatives registered in GovConnectIowa, posting the document in the taxpayer representative's GovConnectIowa account constitutes service or notice of the document. For nonregistered taxpayers or nonregistered taxpayer representatives, documents will be served by ordinary mail. When this nonregistered mailing is required, however, the department may note on the docket the parties served and the method of service instead of filing a certificate of service. With respect to any notice, correspondence, or communication served electronically, response deadlines shall be calculated from the date the taxpayer is notified electronically of the correspondence or the item is mailed, whichever is earlier.

This rule is intended to implement Iowa Code chapter 17A.

701—7.4(17A) Time requirements for filings.

7.4(1) *Computing time.* Time shall be computed in accordance with Iowa Code section 421.9A. For electronic submissions, in addition to the requirements described in Iowa Code section 421.9A, local time for the state of Iowa applies. In computing time in accordance with Iowa Code section 421.9A, the first day shall be excluded and the last included.

7.4(2) *Date of filing.* The date of filing for appeal requests, petitions, or other related documents shall be:

a. If sent electronically either through GovConnectIowa or as described on the department's website, determined by the date on which the electronic submission was completed.

b. If sent by regular mail, the date postmarked on the envelope sent to the department's principal office or, if the postmark is not available, the date the appeal is stamped as received by the department.

c. If hand delivered, the date the appeal is stamped as received by the department.

This rule is intended to implement Iowa Code chapter 17A.

701—7.5(17A) Form and style of documents.

7.5(1) *Requirements applicable to all filings under this chapter.*

a. *Signatures.* Signatures must meet the requirements of 701—subrule 8.2(6). The signature shall constitute a certification that the signer has read the document; that, under penalty of perjury, the signer declares that to the best of the signer's knowledge and belief, the information contained in the document is true, correct, and complete; and that no statement contained in the document is misleading.

b. *Citations.* Citations may be italicized or underlined.

7.5(2) *Paper.* Any paper documents that are allowed or required to be submitted by this chapter must:

- a. Be clear and legible.
- b. Be on white paper.
- c. Be on the applicable department appeal, application for reinstatement, or petition form available on the department's forms website revenue.iowa.gov/forms under the category "Applications and Other" or, if not on the department's form, include a proper caption on the first page.

d. Include a signature.

e. Include copies as herein provided or as specified in other applicable rules.

7.5(3) Email. Any documents allowed or required to be filed by email under this chapter must be:

a. A document in PDF, Microsoft Word, Microsoft Excel, or image format that complies with subrules 7.5(1) and 7.5(2), or

b. The body of an email that meets all of the requirements of subrules 7.5(1) and 7.5(2).

7.5(4) GovConnectIowa. Any documents allowed or required to be filed through GovConnectIowa under this chapter must be:

a. A document in PDF, Microsoft Word, Microsoft Excel, or image format that complies with subrules 7.5(1) and 7.5(2) that is properly uploaded and properly submitted through GovConnectIowa.

b. Completed and submitted on the applicable GovConnectIowa form.

This rule is intended to implement Iowa Code chapters 17A and 554D and sections 421.17 and 421.27A.

701—7.6(17A) Docket. Every matter coming within the purview of this chapter is assigned a docket number that is the official identification number of the matter for the purposes of identification. The parties will be notified of the docket number. The number will be placed by the parties on all documents thereafter filed in the proceeding. After the transfer of a case to the division of administrative hearings for contested case proceedings, that division may assign another docket number to the case and, in that event, both docket numbers will be placed by the parties on all documents thereafter filed in the proceeding.

This rule is intended to implement Iowa Code chapter 17A.

701—7.7(17A) Identifying details, requests for redaction.

7.7(1) Information redacted by the department, subject to certain exceptions. Prior to being made available for public inspection, the department will redact from an appeal or contested case the information required by Iowa Code sections 422.20(5) and 422.72(8). "Make available for public inspection" means disclosure to the public by the department pursuant to Iowa Code section 17A.3 or chapter 22.

7.7(2) Process for requesting redaction of other details from a pleading, exhibit, attachment, motion, or written evidence. If a taxpayer desires information contained in a record, other than the information described in Iowa Code sections 422.20(5) "a" and 422.72(8) "a," to be redacted prior to public inspection, the taxpayer must file a motion and affidavit meeting the requirements below.

a. *Process for filing a motion for redaction of other details during a contested case.* Motions for redaction of other details from a pleading, exhibit, attachment, motion or written evidence filed after the notice of hearing is issued in a contested case must comply with subrule 7.17(5).

b. *Process for filing a motion for redaction of other details prior to the commencement of a contested case.* Motions for redaction of other details from a pleading, exhibit, attachment, motion or written evidence filed prior to a contested case must be filed with the clerk of the hearings section of the department. The motion must be filed separately from the appeal described in subrule 7.9(6).

c. *Contents of motion.* Motions filed under this rule, including those filed during contested cases, shall contain the following:

(1) The name of the person requesting redaction and the docket number of the proceeding.

(2) Clear and convincing evidence that the disclosure would reveal a trade secret or would constitute a clear, unwarranted invasion of personal privacy. Corporations, limited liability companies, other business entities (including but not limited to partnerships and joint ventures), and trusts do not have protectible personal privacy interests.

(3) An unredacted copy of the document containing the information at issue and also a copy of the document with the desired redaction made. If a copy of the document is not in the possession of the taxpayer, the motion must contain a precise description of the document in the possession of the department from which the redaction is sought and a precise description of the information to be redacted. If redaction is sought from more than one document, each document and the information sought to be redacted shall be listed in separate paragraphs.

(4) For each item for which redaction is requested, an explanation of the legal basis for the redaction requested, including an explanation of why the release of the information sought to be redacted is a clear, unwarranted invasion of personal privacy or a trade secret.

(5) An affidavit in support of redaction. The affidavit must:

1. Be sworn to by a person familiar with the facts asserted within it and shall contain a clear and concise explanation of the facts justifying redaction, not merely the legal basis for redaction or conclusory allegations.

2. Contain a general and truthful statement that the information sought to be redacted is not available to the public from any source or combination of sources, direct or indirect, and a general statement that the release would serve no public purpose.

d. Burden of proof. The burden of showing that redaction is justified is on the movant. The burden is not carried by mere conclusory statements or allegations, for example, that the release of the material would be a clear, unwarranted invasion of personal privacy or that the material is a trade secret.

e. Contested case proceeding. That the information sought to be redacted is part of the pleadings, motions, evidence, and the record in a contested case proceeding otherwise open for public inspection and that the matter would otherwise constitute confidential tax information is not grounds for redaction.

7.7(3) *Process for requesting redaction of other details in a final order, decision, or ruling.* Motions to redact information from a final order, decision, or ruling cannot be made until the order is issued and must be made within 30 days of the date of the order, decision, or ruling. The taxpayer must follow the requirements in paragraph 7.7(2)“c” and subrule 7.18(5). The department has 30 days to respond to the motion from the date the department’s representatives receive notice from the presiding officer unless otherwise ordered by the presiding officer.

7.7(4) *Rulings.* Motions filed with the clerk of the hearings section will be ruled on by the director or may be referred by the director to an administrative law judge. Motions filed with the administrative law judge will be ruled on by the administrative law judge. In the case of motions before the director prior to contested case proceedings, the department may respond in writing to a motion on the request of the director or upon the initiative by department staff. Oral argument, including a hearing, may be held at the discretion of the presiding officer. The presiding officer may choose to close a hearing or other proceeding that may otherwise be open to the public due to the confidential nature of information covered by the motion during the pending motion.

7.7(5) *Limitation on motions.* If the motion or request is denied, the movant may not submit a motion to redact the same identifying details unless the movant is in possession of new information that may support the requested redaction(s) that the movant was not or could not have been aware of at the time of the original motion.

7.7(6) *Handling of the file while the motion is pending.* While a motion is pending, unless otherwise required or permitted by law, the department will treat the motion as if it has been granted and will not publicly release any information pursuant to Iowa Code chapter 22 or 17A sought to be kept confidential by the taxpayer.

This rule is intended to implement Iowa Code chapter 17A and sections 422.20(5) and 422.72(8).

701—7.8(17A) Tax appeals. Any person wishing to contest an assessment, denial of refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding, shall file an appeal, in writing, with the department within the time prescribed by the applicable statute or rule for filing notice of application to the director for a hearing. The appeal must be filed as described in rule 701—7.3(17A).

7.8(1) *Deadlines.* The period for appealing department action relating to refund claims is the same statutory period as that for contesting an assessment. Failure to timely file a proper appeal will be construed as a waiver of opposition to the matter involved unless, on the director's own motion, pursuant to statutory authority, the powers of abatement or settlement are exercised.

7.8(2) *Paying an assessment that is divisible.* When an assessment involves divisible taxes that are not timely appealed, namely, an assessment that is divisible into a tax on each transaction or event, the taxpayer may contest the assessment by paying a portion of the assessment and filing a refund claim within the time period provided by law. In this latter instance, the portion paid must represent any undisputed portion of the assessment and must also represent the liability on a transaction or event for which, if the taxpayer is successful in contesting the portion paid, the unpaid portion of the assessment attributable to that specific type of transaction would be canceled. Any such appeal filed is limited to the issues covered by the amounts paid for which a refund was requested and denied by the department. If the department does not grant or deny the refund within six months of the filing of the refund claim or if the department denies the refund, the taxpayer may file an appeal as authorized by this rule.

7.8(3) *Types of divisible taxes.* All of the taxes administered and collected by the department can be divisible taxes, except individual income tax, fiduciary income tax, corporation income tax, franchise tax, partnership income, S corporation income, composite, and statewide property tax. The following noninclusive examples illustrate the application of the divisible tax concept:

EXAMPLE A: As a responsible party, X is assessed withholding income taxes, penalty, and interest on eight employees. X fails to timely appeal the assessment. X contends that X is not a responsible party. If X is a responsible party, X is required to make monthly deposits of the withholding taxes. In this situation, the withholding taxes are divisible. Therefore, X may pay an amount of tax, penalty, and interest attributable to one employee for one month and file a refund claim within the time period provided by law since, if X is successful on the refund claim, the remaining unpaid portion of the assessment would be canceled.

EXAMPLE B: Y is assessed sales tax, interest, and penalty for electricity purchased and used to power a piece of machinery in Y's manufacturing plant. Y fails to timely appeal the assessment. Y was billed monthly for electricity by the power company to which Y had given an exemption certificate. Y contends that the particular piece of machinery is used directly in processing tangible personal property for sale and that, therefore, all of the electricity is exempt from sales tax. In this situation, the sales tax is divisible. Therefore, Y may pay an amount of tax, penalty, and interest attributable to one month's electrical usage in that machinery and file a refund claim within the time period provided by law since, if Y is successful on the refund claim, the remaining unpaid portion of the assessment would be canceled.

7.8(4) *Who may be named in an appeal.* The appeal shall be brought in the name of the aggrieved taxpayer. Each aggrieved taxpayer may protest more than one agency action in a single appeal, subject to the applicable statutory appeal period for each protested agency action. Individuals or entities required to file separate tax returns or those choosing to file separate tax returns may not combine appeals with any other individual or entity. Taxpayers who are not named in the department action under appeal are not aggrieved taxpayers and may not be included in the appeal. The appeal may be filed by and in the name of the aggrieved taxpayer or by the authorized representative described in Iowa Code section 421.59(2), Iowa Code chapter 633B, or subrule 8.8(6) legally entitled to institute a proceeding on behalf of the person or by an intervenor in contested case proceedings. In the event of a discrepancy between the name set forth in the appeal and the correct name, a statement of the reason for the discrepancy shall be set forth in the appeal.

7.8(5) *Form and content of the appeal.*

a. Department forms. Appeals may be filed using the form available on GovConnectIowa or the form available on the department's website: revenue.iowa.gov/forms.

b. Manually created appeals. Persons who do not use GovConnectIowa or the form available on the department's website shall use the following format:

(1) The appeal shall contain a caption in the following form:

BEFORE THE DEPARTMENT OF REVENUE

HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____	*	
(state taxpayer's name and address and	*	APPEAL
designate type of proceeding, e.g.,	*	Docket No. _____
income tax refund claim)	*	(filled in by Department)

- (2) The appeal shall substantially state in separate numbered paragraphs the following:
1. Proper allegations showing:
 - Date of department action, such as the notice of assessment or refund denial;
 - Whether the taxpayer failed to timely appeal the assessment and, if so, the date of payment and the date of filing of the refund claim;
 - Whether the appeal involves the appeal of a refund claim after six months from the date of filing the refund claim because the department failed to deny the claim;
 - Copies of the documented department action, such as the notice of assessment, refund claim, and refund denial letter;
 - Other items that the taxpayer wishes to bring to the attention of the department; and
 - A request for attorney fees, if applicable.
 2. The type of tax, the taxable period or periods involved, and the amount in controversy.
 3. Each error alleged to have been committed, listed in a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
 4. Reference to any particular statute or statutes and any rule or rules involved, if known.
 5. Description of records or documents that were not available or were not presented to department personnel prior to the filing of the appeal, if any. Copies of any records or documents that were not previously presented to the department shall be provided.
 6. Any other matters deemed relevant and not covered in the above paragraphs.
 7. The desire of the taxpayer to expedite proceedings. Rule 701—7.12(17A,421) contains more details on expedited proceedings.
 8. A statement setting forth the relief sought by the taxpayer.
 9. The signature of the taxpayer or the authorized representative. If the appeal is signed by the taxpayer, the address and telephone number of the taxpayer is to be included in the signature block. If the appeal is signed by an authorized representative, the address and telephone number of the authorized representative is to be included in the signature block. Appeals submitted by an authorized representative must have a valid IDR power of attorney form or representative certification form, as applicable in accordance with rule 701—8.8(17A,22,421,422), on file with the department, or one should be included with the appeal.
 - c. *Spouses.* If an appeal involves an assessment or a refund denial to a married couple and both spouses intend to appeal, both spouses must sign the document as drafted under paragraph 7.8(5) “a” or “b.” Appeals submitted by an authorized representative must include an executed IA 2848 power of attorney form or representative certification form, as applicable, for each spouse unless an IA 2848 power of attorney form or representative certification form is on file with the department.
- 7.8(6) Amendments.**
- a. Subject to the statutory appeal period, the taxpayer may amend the appeal at any time before a responsive pleading is filed. Amendments to the appeal after a responsive pleading has been filed may be allowed by the presiding officer, subject to the statutory appeal period, with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.
 - b. The department may request that the taxpayer amend the appeal for purposes of clarification or to comply with format requirements. If the taxpayer fails to amend the appeal within the time provided for in the department's request, the department may move to dismiss the appeal under paragraph 7.11(3) “a.” Requests by the department to the taxpayer to amend the appeal after a responsive pleading has been filed may be allowed by the presiding officer, subject to the statutory appeal period, with the

consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

7.8(7) *Alcohol and lottery appeals.* This chapter does not apply to appeals and contested case proceedings for matters under the Iowa alcoholic beverage control Act (Iowa Code chapter 123) or the Iowa lottery act (Iowa Code chapter 99G). Information about appeals under those chapters is contained in 701—Chapter 6.

This rule is intended to implement Iowa Code chapter 17A.

701—7.9(17A) Resolution of tax liability. In the event that a proper appeal has been filed, other department personnel, when authorized by the appeals section, have the authority to discuss the resolution of any matter in the appeal either with the taxpayer or the taxpayer's representative. The personnel shall report their activities in this regard to the appeals section, and the section shall be authorized to approve or reject any recommendations made by the appropriate personnel to resolve an appeal.

This rule is intended to implement Iowa Code chapter 17A.

701—7.10(17A) Informal stage of the tax appeals process. When an appeal is filed, the parties are encouraged to utilize the informal procedures described in this rule to reach a resolution between the parties without the necessity of initiating contested case proceedings. That resolution may be the granting of the appeal in full or in part, the denial of the appeal in full or in part, or an agreement to settle the matter. Unless, in accordance with rule 701—7.12(17A,421), the taxpayer demands a contested case proceeding or an expedited hearing is agreed to or the department waives informal procedures upon notification to the taxpayer, such informal procedures will be initiated as herein provided upon the filing of a proper appeal.

7.10(1) *Appeals section review.* After an appeal is filed, the review unit, subject to the control of the director or the division administrator of the legal services and appeals division, will:

- a. Review and evaluate the validity of the appeal.
- b. Determine the correct amount of tax owing or refund due.
- c. Determine the best method of resolving the dispute between the taxpayer and the department.
- d. Take further action regarding the appeal, including any additions to and deletions from the audit, as may be warranted by the circumstances to resolve the appeal, including a request for an informal conference.
- e. Determine whether the appeal complies with rule 701—7.8(17A) and request any amendments to the appeal or additional information.

7.10(2) *Determinations, conferences.* The review unit may concede any items contained in the appeal that it determines should not be controverted by the department. If the taxpayer has not waived informal procedures, the review unit may request that the taxpayer and the taxpayer's representative, if any, attend an informal conference with the review unit to explore the possibility of reaching a settlement without the necessity of initiating contested case proceedings or the possibility of narrowing the issues presented in the appeal if no settlement can be made. The review unit may request clarification of the issues from the taxpayer or further information from the taxpayer or third persons.

7.10(3) *Findings.* A position letter addressing the issues raised in the appeal may be issued to the taxpayer or taxpayer's representative unless the issues may be more expeditiously determined in another manner or it is determined that such a letter is unnecessary.

7.10(4) *Format of review.* Nothing herein will prevent the review unit and the taxpayer from mutually agreeing on the manner in which the appeal will be informally reviewed.

7.10(5) *Settlements.* Only the director, a deputy director, the division administrator of the legal services and appeals division, or another person designated in writing by the director may approve and sign settlements of appeals. If a settlement is reached during informal procedures, a closing order stating that a settlement was reached by the parties and that the case is terminated shall be issued by the director and provided to all parties.

This rule is intended to implement Iowa Code section 17A.10.

701—7.11(17A,421) Dismissal of tax appeals.

7.11(1) *Appeals filed after expiration of statutory deadline.* Appeals that are not filed by the applicable statutory deadline shall be dismissed by the director or the director's designee in accordance with the procedure outlined in paragraph 7.11(1) "a."

a. Procedures for motions to dismiss. The department shall file a motion to dismiss with the clerk and serve a copy of the motion on the taxpayer. The taxpayer may file a resistance to the motion in writing within 20 days of the date of service of the motion. If no resistance is so filed, the director or the director's designee shall immediately enter an order dismissing the appeal. Once such dismissal order is entered, the director or the director's designee shall close the appeal. If a resistance is filed, the department has ten days from the date of the filing of the resistance to decide whether to withdraw its motion and so notify the taxpayer and the clerk. If no such notice is received by the clerk within the ten-day period, the appeal file will be transferred to the division of administrative hearings, which shall issue a notice for a contested case proceeding on the motion as prescribed by rule 701—7.15(17A), except that the issue of the contested case proceeding shall be limited to the question of whether the appeal was filed within the statutory appeal period. Thereafter, rule 701—7.18(17A) pertaining to contested case proceedings shall apply in such dismissal proceedings.

b. Grounds for denying the department's motion. The department's motion shall be granted unless the taxpayer can prove that it filed the appeal prior to the expiration of the statutory appeal deadline because the department failed to:

(1) Mail or personally deliver the notice of assessment, refund denial, or other notice of department action to the taxpayer's last-known address; or

(2) If applicable, also mail the notice of assessment, refund denial, or other notice of department action to the taxpayer's authorized representative; or

(3) Comply with the requirements of Iowa Code section 421.60(2) "b."

For purposes of this rule, "last-known address" and "personal delivery" mean the same as described in rule 701—7.23(421).

7.11(2) *Appeals not authorized by statute.* Appeals that are not authorized by statute or otherwise are inconsistent with the statutory requirements for an appeal shall be dismissed by the director in accordance with the procedure outlined in paragraph 7.11(1) "a," except that the issue shall be limited to the question of whether the appeal is authorized by statute and consistent with statutory appeal requirements.

7.11(3) *Failure to pursue the appeal at the informal stage.* If the appeal was filed timely and informal procedures were initiated, the failure of the taxpayer to provide documents or information requested by the department, including the failure to respond to a position letter or an information request, shall constitute failure to pursue the appeal and is grounds for the department to dismiss the appeal in accordance with the procedure outlined in paragraph 7.11(3) "a." For purposes of this subrule, an evasive or an incomplete response will be treated as a failure to pursue the appeal.

a. Procedures for motions to dismiss. If the department seeks to dismiss the appeal, the department shall file a motion to dismiss with the clerk and serve a copy of the motion on the taxpayer. The taxpayer may file a resistance to the motion within 20 days of the date of service of the motion. If no resistance is so filed, the director or the director's designee shall immediately enter an order dismissing the appeal. If a resistance is filed, the department has ten days from the date of the filing of the resistance to decide whether to withdraw its motion and so notify the taxpayer and the clerk. If no such notice is received by the clerk within the ten-day period, the appeal file will be transferred to the division of administrative hearings, which shall issue a notice for a contested case proceeding on the motion as prescribed by rule 701—7.15(17A), except that the issue of the contested case proceeding shall be limited to the question of whether the taxpayer failed to pursue the appeal, as that term is defined in this subrule. Thereafter, rule 701—7.18(17A) pertaining to contested case proceedings shall apply in such dismissal proceedings.

b. Grounds for reinstatement of dismissed appeals. If a motion to dismiss is filed and is unresisted, the appeal that was dismissed may be reinstated by the director or the director's designee for good cause if an application for reinstatement is filed with the clerk within 30 days of the date the appeal was

dismissed. For purposes of this rule, “good cause” means the same as “good cause” in Iowa Rule of Civil Procedure 1.977.

c. Content and review of the application for reinstatement. The application shall set forth all reasons and facts upon which the taxpayer relies in seeking reinstatement of the appeal. Supporting documentation must be supplied. The department shall review and notify the taxpayer whether the application is granted or denied.

d. Denial of the application. If the department denies the application to reinstate the appeal, the taxpayer has 30 days from the date the application for reinstatement was denied in which to request, in writing, a formal hearing on the reinstatement. The taxpayer shall send the written request to the clerk. When a written request for formal hearing is received, the appeal file will be transferred to the division of administrative hearings, which shall issue a notice as prescribed in rule 701—7.15(17A), except that the issue of the contested case proceeding shall be limited to the question of whether the taxpayer has good cause to reinstate the dismissed appeal. Thereafter, rule 701—7.18(17A) pertaining to contested case proceedings shall apply in such reinstatement proceedings. If the taxpayer does not respond to a denial of the application for reinstatement within 30 days of the denial, the director or the director’s designee will issue an order closing the appeal.

e. Failure to file timely application for reinstatement. If an application for reinstatement is filed after the 30-day deadline, the application shall not be accepted by the director or director’s designee.

7.11(4) Dismissal of appeals during contested case proceedings. Once contested case proceedings have been commenced, it shall be grounds for a motion to dismiss that a taxpayer has either failed to diligently pursue the appeal or has refused to comply with requests for discovery set forth in rule 701—7.16(17A). Such a motion must be filed with the presiding officer.

This rule is intended to implement Iowa Code sections 17A.12, 421.10, 421.60, and 422.28.

701—7.12(17A,421) Demand for contested case proceeding. Pursuant to Iowa Code section 421.60(2) “g,” a taxpayer may make a written demand for a contested case proceeding after a period of six months from the filing of a proper appeal. Demands made prior to six months will be treated as premature and must be resubmitted six months or later from the filing of the appeal. Upon receipt of a timely written demand, the department shall file its answer within 30 days after receipt of the demand. If the department fails to file its answer within this 30-day period, interest shall be applied in the manner described in the introductory paragraph of rule 701—7.13(17A).

This rule is intended to implement Iowa Code sections 17A.12 and 421.60.

701—7.13(17A) Answer. If the parties are unable to resolve the appeal informally, or if the parties waive informal proceedings as described in rule 701—7.12(17A,421), the department shall file an answer to the appeal with the clerk. Subject to the limitations in rule 701—7.12(17A,421), the department will file an answer within 30 days of receipt of written demand for a contested case hearing from the taxpayer. In the case of an appeal of an assessment, failure to answer within the 30-day time period and after a demand for hearing has been made shall result in the suspension of interest from the time that the department was required to answer until the date that the department files its answer. In the case of an appeal of a refund denial, failure to answer within the 30-day time period after a demand for hearing has been made shall result in the accrual of interest payable to the taxpayer at double the rate in effect under Iowa Code section 421.7 from the time the department was required to answer until the date that the department files its answer. Failure to file an answer within 30 days after the demand for contested case will not result in a default judgment for the taxpayer.

7.13(1) The answer of the department shall be drawn in a manner as provided by the Iowa Rules of Civil Procedure for answers filed in Iowa district courts.

7.13(2) Each paragraph contained in the answer shall be numbered or lettered to correspond, where possible, with the paragraphs of the appeal. The answer shall be signed by the department’s counsel or representative.

7.13(3) The department shall promptly serve a copy of the answer upon the representative of record or, if there is no representative of record, upon the taxpayer. The department may amend its answer at

any time prior to the commencement of the evidentiary hearing in response to the filing of an amended appeal or to assert a new matter or an affirmative defense. The presiding officer has discretion to grant a continuance to avoid prejudice to the taxpayer or the department.

7.13(4) The provisions of this rule shall be considered as a part of the informal procedures since a contested case proceeding, at the time of the filing of the answer, has not yet commenced. However, an answer shall be filed pursuant to this rule whether or not informal procedures have been waived by the taxpayer or the department.

7.13(5) The department's answer may contain a statement setting forth whether the case should be transferred to the division of administrative hearings or the director should retain the case for hearing.

7.13(6) The department's answer should set forth the basis for retention of the case by the director as provided in subrule 7.18(1). If the answer fails to allege that the case should be retained by the director, the case should be transferred to the division of administrative hearings for contested case proceedings unless the director determines on the director's own motion that the case should be retained by the director.

7.13(7) Upon the filing of an answer, the clerk will transfer the appeal file to the division of administrative hearings within 30 days of the date of the filing of the answer unless the director determines not to transfer the case. If a party objects to a determination under rule 701—7.18(17A), the transfer, if any, would be made after the director makes a ruling on the objection.

This rule is intended to implement Iowa Code chapter 17A and section 421.60.

701—7.14(17A) Subpoenas. Prior to the commencement of a contested case, the department has the authority to subpoena books, papers, and records and has all other subpoena powers conferred upon it by law. Subpoenas in this case shall be issued by the director or the director's designee. Once a contested case is commenced, subpoenas must be issued by the presiding officer.

This rule is intended to implement Iowa Code sections 17A.13, 421.9, 421.17, and 422.70.

701—7.15(17A) Commencement of contested case. A demand or request by the taxpayer for the commencement of contested case proceedings must be in writing and filed with the clerk by email to the address provided in paragraph 7.3(1) "b"; by mail via the United States Postal Service or common carrier by ordinary, certified, or registered mail in care of the clerk to the address listed in paragraph 7.3(1) "c"; or by personal service to the department's customer service desk as described in paragraph 7.3(1) "d." Alternatively, a taxpayer that has a GovConnectIowa account may notify the clerk by using the Manage Appeal option in GovConnectIowa. The demand must be made no sooner than six months after the filing of the appeal. If the demand or request does not indicate a postmark date, then the date of receipt or the date personal service is made is considered the date of filing. Iowa Code section 622.105 describes the evidence necessary to establish proof of mailing.

7.15(1) When requesting a contested case hearing with the division of administrative hearings, the department shall complete a transmittal form consistent with rule 481—10.4(10A). The transmittal form is merely an administrative tool intended to facilitate the issuance of the notice of hearing.

7.15(2) At the request of a party or the presiding officer made prior to the issuance of the hearing notice, the presiding officer shall hold a telephone conference with the parties for the purpose of identifying the issues within the scope of the contested case, scheduling the hearing date, establishing discovery or other deadlines, and other procedural matters to be addressed in the notice of hearing. The notice of hearing shall be issued by the later of the following: within 30 days of the transmittal of the case from the department to the division of administrative hearings or one week after a telephone conference held under this subrule.

7.15(3) A contested case commences when the presiding officer delivers the notice of hearing by ordinary mail or electronic mail to the parties.

7.15(4) Any party may apply to the presiding officer for a continuance or a specific date for the hearing. The presiding officer may grant or deny such requests.

a. The notice of hearing shall include:

(1) A statement of the time (which shall allow for a reasonable time to conduct discovery), place and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is held;

(3) A reference to the particular sections of the statutes and rules involved; and

(4) A short and plain statement of the matters asserted, including the issues.

b. The statement of the issues in the notice of hearing shall not include issues that are not presented in the appeal or the answer.

7.15(5) After the delivery of the notice commencing the contested case proceedings, the parties may file further pleadings or amendments to pleadings in accordance with this chapter.

This rule is intended to implement Iowa Code section 17A.12.

701—7.16(17A) Discovery.

7.16(1) The rules of the supreme court of the state of Iowa applicable in civil proceedings with respect to depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission shall apply to discovery procedures in contested cases.

7.16(2) Disputes concerning discovery shall be resolved by the presiding officer. If necessary, a hearing shall be scheduled, with reasonable notice to the parties, and, upon hearing, an appropriate order shall be issued by the presiding officer.

7.16(3) When the department relies on a witness in a contested case, whether or not the witness is a departmental employee, who has made prior statements or reports with respect to the subject matter of the witness' testimony, the department shall, on request, make such statements or reports available to a party for use on cross-examination unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute.

7.16(4) Identifiable department records that are relevant to disputed material facts involved in a contested case shall, upon request, promptly be made available to the party unless the requested records are expressly exempt from disclosure by constitution or statute.

This rule is intended to implement Iowa Code chapter 17A.

701—7.17(17A) Prehearing conference.

7.17(1) Following the commencement of the contested case and upon the motion of the presiding officer, or upon the written request of a party, the presiding officer shall direct the parties to appear at a specified time and place before the presiding officer for a prehearing conference to consider:

a. The possibility or desirability of waiving any provisions of the Act relating to contested cases by written stipulation representing an informed mutual consent;

b. The necessity or desirability of setting a new date for hearing;

c. The simplification of issues;

d. The necessity or desirability of amending the pleadings, subject to the applicable statute of limitations and the applicable statutory appeal period;

e. The possibility of agreeing to the admission of facts, documents or records not controverted, to avoid unnecessary introduction of proof;

f. The procedure at the hearing;

g. Limiting the number of witnesses;

h. The names and identification of witnesses and the facts each party will attempt to prove at the hearing;

i. Conduct or schedule of discovery; and

j. Such other matters as may aid, expedite or simplify the disposition of the proceeding.

7.17(2) Any action taken at the prehearing conference shall be recorded in an order unless the parties enter into a written stipulation as to such matters or agree to a statement thereof made on the record by the presiding officer.

7.17(3) When an order is issued at the termination of the prehearing conference, a reasonable time shall be allowed for the parties to present objections on the grounds that the order does not fully or correctly embody the agreements made at such conference. Thereafter, the terms of the order or modification thereof shall determine the subsequent course of the proceedings relative to matters the order includes unless modified to prevent manifest injustice.

7.17(4) If either party to the contested case fails to appear at the prehearing conference without requesting a continuance and without submitting evidence or arguments that the party wishes to be considered in lieu of appearance, the opposing party may move for dismissal. The motion shall be made in accordance with subrule 7.18(5).

This rule is intended to implement Iowa Code section 17A.12.

701—7.18(17A) Contested case procedures.

7.18(1) *Evidentiary hearing.* Unless the parties to a contested case proceeding have, by written stipulation representing an informed mutual consent, waived the provisions of the Act relating to such proceedings, contested cases shall culminate in an evidentiary hearing open to the public.

a. Evidentiary hearings in which the presiding officer is an administrative law judge employed by the division of administrative hearings shall be held at the location designated in the notice of evidentiary hearing.

b. If the director retains a contested case, the location for the evidentiary hearing will generally be at the main office of the department at the Hoover State Office Building, First Floor, Des Moines, Iowa 50319. However, the department retains the discretion to change the location of the evidentiary hearing if necessary. The location of the evidentiary hearing will be designated in the notice of hearing issued by the director.

7.18(2) *Determination of presiding officer.* If the director retains a contested case for evidentiary hearing and the department is a party, the initial presiding officer will be the director. Upon determining that a case will be retained and not transferred to the division of administrative hearings, the director shall issue to the parties a written notification of the determination that states the basis for retaining the case for evidentiary hearing.

a. The director may determine to retain a contested case for evidentiary hearing and decision upon the filing by the department of its answer under rule 701—7.13(17A). If the answer failed to allege that the case should be retained by the director and the case was transferred to the division of administrative hearings for contested case proceedings, either party may, within a reasonable time after the issuance of the hearing notice provided in rule 701—7.15(17A), make application to the director to recall and retain the case for hearing and decision. Any such application shall be served upon the assigned administrative law judge or presiding officer.

b. A taxpayer may file a written objection to the director's determination to retain the case for evidentiary hearing and may request that the contested case be heard by an administrative law judge or presiding officer and request a hearing on the objection. Such an objection must be filed with the clerk by email to the address provided in paragraph 7.3(1) "b," by mail via the United States Postal Service or common carrier by ordinary, certified, or registered mail in care of the clerk to the address listed in paragraph 7.3(1) "c," or by personal service to the department's customer service desk as described in paragraph 7.3(1) "d" within 20 days of the notice issued by the director of the director's determination to retain the case.

c. The director may retain the case only upon a finding that one or more of the following apply:

- (1) One of the reasons listed in Iowa Code section 17A.11(1) "a."
- (2) The case involves an issue or issues the resolution of which would create important precedent;
- (3) The case involves complex or extraordinary questions of law or fact;
- (4) The case involves issues or questions of law or fact that, based on the director's discretion, should be retained by the director;
- (5) The request is not consistent with a specified statute; or
- (6) Assignment of an administrative law judge will result in lengthening the time for issuance of a proposed decision, after the case is submitted, beyond a reasonable time as provided in subrule 7.18(8).

In making this determination, the director shall consider whether the assigned administrative law judge has a current backlog of submitted cases for which decisions have not been issued for one year after submission.

d. The director shall issue a written order specifying the grounds for the decision within 20 days after a request for an administrative law judge is filed. If a party objects to the director's determination to retain a case for evidentiary hearing, transfer of the appeal file, if any, will be made after the director makes a final determination on the objection. If the ruling is contingent upon the availability of a qualified administrative law judge, the parties shall be notified at least ten days prior to the hearing whether a qualified administrative law judge will be available.

e. If there is no factual conflict or credibility of evidence offered in issue, either party, after the contested case has been heard and a proposed decision is pending with a presiding officer other than the director for at least one year, may make application to the director to transfer the case to the director for decision. In addition, if one or more criteria listed in paragraph 7.18(2)"c" exist, the director, on the director's own motion, may issue a notice to the parties of the director's intention to transfer the case to the director for decision. The opposing party may file, within 20 days after service of such application or notice by the director, a resistance setting forth in detail why the case should not be transferred. If the director approves the transfer of the case, the director shall issue a final contested case decision. The director or a party may request that the parties be allowed to submit proposed findings of fact and conclusions of law.

f. The director has the right to require that any presiding officer, other than the director, be a licensed attorney in the state of Iowa unless the contested case only involves licensing. In addition, any presiding officer must possess, upon determination by the director, sufficient technical expertise and experience in the areas of taxation and presiding over proceedings to effectively determine the issues involved in the proceeding.

g. 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 director.

7.18(3) Conduct of proceedings.

a. A proceeding shall be conducted by a presiding officer who shall:

- (1) Open the record and receive appearances;
- (2) Administer oaths and issue subpoenas;
- (3) Enter the notice of hearing into the record;
- (4) Receive testimony and exhibits presented by the parties;
- (5) In the presiding officer's discretion, interrogate witnesses;
- (6) Rule on objections and motions;
- (7) Close the hearing; and
- (8) Issue an order containing findings of fact and conclusions of law.

b. The presiding officer may resolve preliminary procedural motions by telephone or videoconference in which all parties have an opportunity to participate. Other telephone or video proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone or video hearing. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Parties shall be notified at least 30 days in advance of the date and place of the hearing.

c. Evidentiary proceedings shall be oral, open to the public, and recorded either by electronic means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters bear the costs of reporting. The record of the oral proceedings or the transcription thereof shall be filed with and maintained by the department for at least five years from the date of the decision. An opportunity shall be afforded to the parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense. Unless otherwise directed by the presiding officer, evidence will be received in the following order:

- (1) Taxpayer,
- (2) Intervenor (if applicable),
- (3) Department,

- (4) Rebuttal by taxpayer,
- (5) Oral argument by parties (if necessary).

d. If the taxpayer or the department appears without counsel or other representative who can reasonably be expected to be familiar with these rules, the presiding officer shall explain to the parties the rules of practice and procedure and generally conduct a hearing in a less formal manner than that used when the parties have counsel or representation. It should be the purpose of the presiding officer to assist any party appearing without such representative to the extent necessary to allow the party to present evidence, testimony, and argument on the issues. The presiding officer shall take whatever steps may be necessary and proper to ensure that all evidence having probative value is presented and that each party is accorded a fair hearing.

e. If the parties have mutually agreed to waive the provisions of the Act in regard to contested case proceedings, the hearing will be conducted in a less formal manner than when an evidentiary hearing is conducted.

f. The presiding officer may enter a default decision as described in subrule 7.18(7).

g. Contemptuous conduct by any person appearing at a hearing shall be grounds for the person's exclusion from the hearing by the presiding officer.

7.18(4) Rules of evidence.

a. Oath. All testimony presented before the presiding officer shall be given under oath, which the presiding officer has authority to administer.

b. Production of evidence and testimony. The presiding officer may issue subpoenas to a party on request, as permitted by law, compelling the attendance of witnesses and the production of books, papers, records, or other real evidence.

c. Subpoena. When a subpoena is desired after the commencement of a contested case proceeding, the proper party shall indicate to the presiding officer the name of the case, the docket number, and the last-known mailing addresses of the witnesses to be called. If evidence other than oral testimony is required, each item to be produced must be adequately described. When properly prepared by the presiding officer, the subpoena will be returned to the requesting party for service. Service may be made in any manner allowed by law before the hearing date of the case that the witness is required to attend. No costs for serving a subpoena will be allowed if the subpoena is served by any person other than the sheriff. Subpoenas requested for discovery purposes shall be issued by the presiding officer.

d. Admissibility of evidence.

- (1) Evidence having probative value.

1. Although the presiding officer is not bound to follow the technical common law rules of evidence, a finding shall be based upon the kind of evidence on which a reasonably prudent person would rely for the conduct of the person's serious affairs and may be based upon such evidence even if it would be inadmissible in a jury trial. Therefore, the presiding officer may admit and give probative effect to evidence on which a reasonably prudent person would rely for the conduct of the person's serious affairs. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The presiding officer shall give effect to the rules of privilege recognized by law. Evidence not provided to a requesting party through discovery shall not be admissible at the hearing. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, substantially any part of the evidence may be required to be submitted in verified written form by the presiding officer.

2. Objections to evidentiary offers may be made at the hearing, and the presiding officer's ruling thereon shall be noted in the record.

(2) Evidence of a federal determination of the taxpayer's liability. Evidence of a federal determination of the taxpayer's liability such as a treasury department ruling, regulation or determination letter issued to the taxpayer; a taxpayer's federal court decision; or an Internal Revenue Service assessment issued to the taxpayer relating to issues raised in the proceeding are admissible, and the taxpayer is presumed to have conceded the accuracy of the federal determination unless the taxpayer specifically states wherein it is erroneous.

(3) Copies of evidence. A copy of any book, record, paper or document may be offered directly in evidence in lieu of the original if the original is not readily available or if there is no objection. Upon request, the parties shall be given an opportunity to compare the copy with the original, if available.

(4) Stipulations. Approval of the presiding officer is not required for stipulations of fact to be used in contested case proceedings. In the event the parties file stipulations of fact in the proceedings, the stipulation is binding on the parties and the presiding officer.

e. Identification of exhibits. Exhibits that are offered by taxpayers and attached to a stipulation or entered in evidence shall be numbered serially, e.g., 1, 2, 3; exhibits offered by the department shall be lettered serially, e.g., A, B, C; and those offered jointly shall be numbered and lettered, e.g., 1-A, 2-B, 3-C.

f. Official notice. The official notice provisions of Iowa Code section 17A.14(4) apply to contested cases of the department.

g. Evidence outside the record. Except as provided by these rules, the presiding officer shall not consider factual information or evidence in the determination of any proceeding unless the same shall have been offered and made a part of the record in the proceeding.

h. Presentation of evidence and testimony. In any hearing, each party in attendance shall have the right to present evidence and testimony of witnesses and to cross-examine any witness who testifies on behalf of an adverse party. A person whose testimony has been submitted in written form shall, if available, also be subject to cross-examination by an adverse party. Opportunity shall be afforded each party for re-direct examination and re-cross-examination and to present evidence and testimony as rebuttal to evidence presented by another party, except that unduly repetitious evidence shall be excluded.

i. Offer of proof. An offer of proof may be made through the witness or by statement of counsel. The party objecting may cross-examine the witness without waiving any objection.

7.18(5) Motions.

a. Filing of motions after commencement of contested case proceedings. After commencement of contested case proceedings, appropriate motions may be filed with the presiding officer by any party when facts requiring such motion come to the knowledge of the party. All motions shall state the relief sought and the grounds upon which the motions are based.

b. Service, rulings. Motions made prior to a hearing shall be in writing and a copy thereof served on all parties and attorneys of record. The presiding officer will rule on such motions by issuing a written order. A copy of the order containing the ruling on the motion shall be served on the parties and authorized representatives. A motion may be made orally during the course of a hearing; however, the presiding officer may request that the motion be reduced to writing and filed with the presiding officer.

c. Consent of the opposing party, burden. To avoid a hearing on a motion, it is advisable to secure the consent of the opposing party prior to filing the motion. If consent of the opposing party to the motion is not obtained, a hearing on the motion may be scheduled and the parties notified. The burden will be on the party filing the motion to show good cause as to why the motion should be granted.

d. Affidavits. The party making the motion may affix thereto such affidavits as are deemed essential to the disposition of the motion, which shall be served with the motion and to which the opposing party may reply with counter affidavits.

e. Resistance. The party opposing a motion, except in the case of motions for summary judgment, must file its resistance within ten days of the date of filing of the motion unless a presiding officer otherwise orders a different deadline to file the resistance.

f. Reply. The movant may file a reply within seven days of the date of filing of the resistance to the motion.

g. Types of motions. Types of motions include but are not limited to:

(1) Motion for continuance. Motions for continuance should be filed no later than ten days before the scheduled date of the contested case hearing unless the grounds for the motion are first known to the moving party within ten days of the hearing, in which case the motion shall be promptly filed and shall set forth why it could not be filed at least ten days prior to the hearing. Grounds for motion for

continuance include, but are not limited to, the unavailability of a party, a party's representative, or a witness; the incompleteness of discovery; and the possibility of settlement of the case.

(2) Motion for dismissal.

(3) Motion for summary judgment.

(4) Motion for redaction of identifying details in the decision. More information is contained in rule 701—7.7(17A).

(5) Motion for default.

(6) Motion to vacate default.

h. Summary judgment procedure. Summary judgment may be obtained under the following conditions and circumstances:

(1) A party may move, with or without supporting affidavits, for summary judgment in the party's favor upon all or any part of a party's claim or defense.

(2) The motion shall be filed not less than 60 days prior to the date set for the contested case hearing unless otherwise ordered by the presiding officer. Any party resisting the motion shall file the following within 30 days of the date of filing of the motion: a resistance; a statement of disputed facts, if any; and a memorandum of authorities supporting the resistance. If affidavits supporting the resistance are filed, they must be filed with the resistance. The movant may reply to the resistance within 15 days of the date of filing of the resistance.

(3) Upon any motion for summary judgment pursuant to this rule, there shall be affixed to the motion a separate, short, and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits that support such contentions and a memorandum of authorities.

(4) Supporting and opposing affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. The presiding officer may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, further affidavits, or oral testimony. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party's pleading but the party's response must set forth specific facts, by affidavits or as otherwise provided in this rule, showing that there is a genuine issue for hearing. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.

(5) If, on motion under this rule, judgment is not rendered upon the whole case or for all the relief asked and a hearing is necessary, the presiding officer at the hearing of the motion, by examining the pleadings and the evidence before the presiding officer and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. The presiding officer shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the hearing of the contested case, the facts so specified shall be deemed established, and the hearing shall be conducted accordingly.

(6) Should it appear from the affidavits of a party opposing the motion that the party cannot present, by affidavit, facts essential to justify the party's opposition, the presiding officer may refuse the application for judgment, may order a continuance to permit affidavits to be obtained, may order depositions be taken or discovery be completed, or may make any other order appropriate.

(7) An order on summary judgment that disposes of less than the entire case is appealable to the director at the same time that the proposed order is appealable pursuant to subrule 7.18(8).

7.18(6) Briefs and oral argument.

a. At any time, upon the request of any party or in the presiding officer's discretion, the presiding officer may require the filing of briefs on any of the issues before the presiding officer prior to or at the time of hearing, or at a subsequent time. At the conclusion of hearing, the parties should be prepared to make oral arguments as to the facts and law if directed by the presiding officer.

b. A copy of all briefs shall be filed. Filed briefs shall conform to the requirements of subrules 7.5(1) and 7.5(2).

c. The parties may agree to a briefing schedule. If the parties agree to a briefing schedule and if the presiding officer adopts the agreed-upon briefing schedule by issuing an order to that effect, the schedule is binding on the parties and the presiding officer except that, for good cause shown, the time may be extended upon application of a party.

7.18(7) Defaults. 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.

a. Where appropriate and not contrary to law, any party may move for default against a party who has failed to file a required pleading or has failed to appear after proper service.

b. A default decision or a decision rendered on the merits after a party failed to appear or participate in a contested case proceeding becomes a final department 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 in subrule 7.18(8). 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, and such affidavit(s) must be attached to the motion.

c. 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.

d. Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties have ten days to respond to a motion to vacate. Adverse parties shall 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.

e. For purposes of this rule, "good cause" means the same as "good cause" in Iowa Rule of Civil Procedure 1.977.

f. 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 adversely affected party as provided in subrule 7.18(11).

g. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

h. A default decision may award any relief consistent with the request for relief by the party in whose favor the default decision is made and embraced in the contested case issues, but unless the defaulting party has appeared, the relief awarded cannot exceed the relief demanded.

i. 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 a stay.

7.18(8) Orders.

a. *Proposed decisions submitted by parties.* At the conclusion of the hearing, the presiding officer, in the presiding officer's discretion, may request the parties to submit proposed findings of fact and conclusions of law. Upon the request of any party, the presiding officer shall allow the parties an opportunity to submit proposed findings of fact and conclusions of law. In addition to or in lieu of the filing of briefs, upon the request of all of the parties waiving any contrary contested case provisions of law or of these rules, the presiding officer shall allow the parties to submit proposed findings of fact and conclusions of law, and the presiding officer may sign and adopt as the decision or proposed decision one of such proposed findings of fact and conclusions of law without any changes or with such changes that are supported by the record and law.

b. *Preparing the proposed decision.* The decision in a contested case is an order that shall be in writing or stated in the record. The order shall include findings of fact prepared by the presiding officer, unless the presiding officer is unavailable, and based solely on the evidence in the record and on matters

officially noticed in the record and shall include conclusions of law. The findings of fact and conclusions of law shall be separately stated. If a party has submitted proposed findings of fact, the order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. The decision must include an explanation of why the relevant evidence in the record supports each material finding of fact. If the issue of reasonable litigation costs was held in abeyance pending the outcome of the substantive issues in the contested case and the proposed order decides substantive issues in favor of the taxpayer, the proposed order shall include a notice of time and place for a hearing on the issue of whether reasonable litigation costs shall be awarded and on the issue of the amount of such award unless the parties agree otherwise. All decisions and orders in a contested case proceeding shall be based solely on the legal bases and arguments presented by the parties. In the event that the presiding officer believes that a legal basis or argument for a decision or order exists, but has not been presented by the parties, the presiding officer shall notify the parties and give them an opportunity to file a brief that addresses such legal basis or argument.

c. Decision on motions to redact identifying details. When a motion has been made to redact identifying details in an order on the basis of personal privacy or trade secrets, the justification for such redaction or refusal to redact shall be made by the moving party and shall appear in the order.

d. Proposed and final decisions. When the director initially presides at a hearing or considers decisions on appeal from or review of a proposed decision by the presiding officer other than the director, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to or review on motion of a second agency within the time provided by statute or rule. When a presiding officer other than the director presides at the hearing, the order becomes final and not subject to judicial review unless there is an appeal to or review on motion of the director within 30 days of the date of the order, including Saturdays, Sundays, and holidays as defined in Iowa Code section 421.9A, or 10 days, excluding Saturdays, Sundays, and holidays as defined in Iowa Code section 421.9A, for a revocation order pursuant to rule 701—7.26(17A). However, if the contested case proceeding involves a question of an award of reasonable litigation costs, the proposed order on the substantive issues shall not be appealable to or reviewable by the director on the director's motion until the issuance of a proposed order on the reasonable litigation costs. If there is no such appeal to or review by the director within 30 days or 10 days, whichever is applicable, from the date of the proposed order on reasonable litigation costs, both the proposed order on the substantive issues and the proposed order on the reasonable litigation costs become final and not subject to judicial review. On an appeal from, review of, or application for rehearing concerning the presiding officer's order, the director has all the power which the director would initially have had in making the decision; however, the director will consider only those issues presented at the hearing before the presiding officer or raised independently by the presiding officer, including the propriety of and the authority for raising issues. The parties will be notified of those issues that will be considered by the director.

e. Application to review interlocutory decisions. Notwithstanding this rule, where a presiding officer other than the director issues an interlocutory decision or ruling which does not dispose of all the issues, except reasonable litigation costs, in the contested case proceeding, the party adversely affected by the interlocutory decision or ruling may apply to the director within 20 days (10 days for a revocation proceeding) of the date of issuance of the interlocutory decision or ruling to grant an appeal in advance of the proposed decision. The application shall be served on the parties and the presiding officer. The party opposing the application shall file any resistance within 15 days of the service of the application unless, for good cause, the director extends the time for such filing. The director, in the exercise of discretion, may grant the application on finding that such interlocutory decision or ruling involves substantial rights and will materially affect the proposed decision and that a determination of its correctness before hearing on the merits will better serve the interests of justice. The order of the director granting the appeal may be on terms setting forth the course of proceedings on appeal, including advancing the appeal for prompt submission, and the order shall stay further proceedings below. The presiding officer, at the request of the director, shall promptly forward to the director all or a portion of the file or record in the contested case proceeding.

f. Appeals to and reviews by director—notice to administrative hearings division. In the event of an appeal to or review of the proposed order by the director, the administrative hearings division shall be promptly notified of the appeal or review by the director. The administrative hearings division shall, upon such notice, promptly forward the record of the contested case proceeding and all other papers associated with the case to the director.

g. Director's authority in appeals and review of proposed decisions. On an appeal or review of a proposed decision, the director has all the power that the director would have in initially making the final decision except as it may limit the issues on notice to the parties. A decision by the director may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding of fact or may reverse or modify any conclusion of law that the director finds to be in error.

h. Issuing orders. Orders will be issued within a reasonable time after termination of the hearing. Parties shall be promptly notified of each order by delivery to them of a copy of the order by personal service, regular mail, certified mail, return receipt requested, AEDMS as described in 481—Chapter 16, or any other method to which the parties may agree. For example, a copy of the order can be submitted by electronic mail if both parties agree.

i. Cross-appeals. A cross-appeal may be taken within the 30-day period for taking an appeal to the director or in any event within 5 days after the appeal to the director is taken. If a cross-appeal is taken from a revocation order pursuant to rule 701—7.26(17A), the cross-appeal may be taken within the ten-day period for taking an appeal to the director or in any event within five days after the appeal to the director is taken.

j. Transmission of case from administrative hearings division back to the department. Upon issuance of a closing order or the proposed decision by a presiding officer other than the director, such presiding officer no longer has authority over the contested case, except to resolve taxpayer requests for awards of reasonable litigation costs. Thereafter, any further proceedings associated with or related to the contested case must occur before the director.

k. Exhaustion of administrative remedies required. A party may not seek judicial review until the director has issued a final decision of the agency. If a party seeks judicial review of a proposed decision of an administrative law judge without appealing to the director or without review of the proposed decision by the director, the party is deemed to have failed to exhaust adequate administrative remedies.

7.18(9) Stays.

a. During the pendency of judicial review of the final contested case order of the department, the party seeking judicial review may file with the director an application for a stay. The application shall set forth in detail the reasons why the applicant is entitled to a stay and shall specifically address the following four factors:

- (1) The extent to which the applicant is likely to prevail when the court finally disposes of the matter;
- (2) The extent to which the applicant will suffer irreparable injury if the stay is not granted;
- (3) The extent to which the granting of a stay to the applicant will substantially harm the other parties to the proceedings; and
- (4) The extent to which the public interest relied on by the department is sufficient to justify the department's actions in the circumstances.

b. The director shall consider and balance the previously mentioned four factors and may consult with department personnel and the department's representatives in the judicial review proceeding. The director shall expeditiously grant or deny the stay.

7.18(10) Costs.

a. A prevailing taxpayer in a contested case proceeding related to the determination, collection, or refund of a tax, penalty, or interest may be awarded by the department reasonable litigation costs incurred subsequent to the issuance of the notice of assessment or refund denial that are based upon the following:

- (1) The reasonable expenses of expert witnesses.
- (2) The reasonable costs of studies, reports, and tests.

(3) The reasonable fees of independent attorneys or independent accountants retained by the taxpayer. No such award is authorized for accountants or attorneys who represent themselves or who are employees of the taxpayer.

b. An award for reasonable litigation costs shall not exceed \$25,000 per case.

c. No award shall be made for any portion of the proceeding which has been unreasonably protracted by the taxpayer.

d. For purposes of this subrule, “prevailing taxpayer” means a taxpayer who establishes that the position of the department in the contested case proceeding was not substantially justified and who has substantially prevailed with respect to the amount in controversy, or has substantially prevailed with respect to the most significant issue or set of issues presented. If the position of the department in issuance of the assessment or refund denial was not substantially justified and if the matter is resolved or conceded before the contested case proceeding is commenced, there cannot be an award for reasonable litigation costs.

e. The definition of “prevailing taxpayer” is taken from the definition of “prevailing party” in 26 U.S.C. §7430. Therefore, federal cases determining whether the Internal Revenue Service’s position was substantially justified will be considered in the determination of whether a taxpayer is entitled to an award of reasonable litigation costs to the extent that 26 U.S.C. §7430 is consistent with Iowa Code section 421.60(4).

f. The taxpayer has the burden of establishing the unreasonableness of the department’s position.

g. Once a contested case has commenced, a concession by the department of its position or a settlement of the case either prior to the evidentiary hearing or any order issued does not, per se, either authorize an award of reasonable litigation costs or preclude such award.

h. If the department relied upon information provided or action conducted by federal, state, or local officials or law enforcement agencies with respect to the tax imposed by Iowa Code chapter 453B, an award for reasonable litigation costs shall not be made in a contested case proceeding involving the determination, collection, or refund of that tax.

i. The taxpayer who seeks an award of reasonable litigation costs must specifically request such award in the appeal, or the request for award will not be considered.

j. A request for an award of reasonable litigation costs shall be held in abeyance until the concession or settlement of the contested case proceeding, or the issuance of a proposed order in the contested case proceeding, unless the parties agree otherwise.

k. At the hearing held for the purpose of deciding whether an award for reasonable litigation costs should be awarded, consideration shall be given to the following points:

(1) Whether the department’s position was substantially justified;

(2) Whether the taxpayer is the prevailing taxpayer;

(3) Whether the taxpayer has established how the alleged reasonable litigation costs were incurred.

The burden is upon the taxpayer to establish how the alleged reasonable litigation costs were incurred. This requires a detailed accounting of the nature of each cost, the amount of each cost, and to whom the cost was paid or owed;

(4) Whether alleged litigation costs are reasonable or necessary;

(5) Whether the taxpayer has met the taxpayer’s burden of demonstrating all of these points.

7.18(11) *Interlocutory appeals.* Upon written request of a party or on the director’s own motion, the director may review an interlocutory order of the presiding officer. In determining whether to do so, the director shall weigh the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the director at the time of the review of 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.

7.18(12) *Consolidation and severance.*

a. *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

(1) The matters at issue involve common parties or common questions of fact or law;

- (2) Consolidation would expedite and simplify consideration of the issues involved; and
- (3) Consolidation would not adversely affect the rights of any of the parties to those proceedings.

b. Severance. On motion by a party, the presiding officer may, for good cause shown, order any contested case or portions thereof severed. If the presiding officer severs one or more issues from the remaining issues in the contested case, the contested case proceeds only on the issues that the presiding officer ordered for resolution. Once the decision on the issues that the presiding officer ordered for resolution becomes final and is not subject to further appeals, the parties may proceed, if necessary, with contested case on the issues that the presiding officer severed.

c. Stipulations. Stipulations of fact are encouraged, but no party can be required to stipulate to any facts. Stipulations as to the law are invalid.

d. Informal disposition. Without the necessity of proceeding to an evidentiary hearing in a contested case, the parties may agree in writing to informally dispose of the case by stipulation, agreed settlement, or consent order or by another method agreed upon. If such informal disposition is utilized, the parties shall so indicate to the presiding officer that the case has been settled. Upon request, the presiding officer shall issue a closing order to reflect such a disposition. The contested case is terminated upon issuance of a closing order.

e. Mutual waivers. Unless otherwise precluded by law, the parties in a contested case proceeding may mutually agree to waive any provision under this rule governing contested case proceedings.

This rule is intended to implement Iowa Code sections 17A.12, 17A.14, 17A.15, 421.60 and 452A.68.

701—7.19(17A) Interventions. Interventions are governed by the Iowa Rules of Civil Procedure.

This rule is intended to implement Iowa Code chapter 17A.

701—7.20(17A) Record and transcript.

7.20(1) The record in a contested case shall include:

- a.* All pleadings, motions, and rulings;
- b.* All evidence received or considered and all other submissions;
- c.* A statement of all matters officially noticed;
- d.* All questions and offers of proof, objections, and rulings thereon;
- e.* All proposed findings and exceptions;
- f.* All orders of the presiding officer; and
- g.* The order of the director on appeal or review.

7.20(2) Oral hearings regarding proceedings on appeal to or considered on motion of the director that are recorded by electronic means shall not be transcribed for the record of such appeal or review unless a party, by written notice, or the director, orally or in writing, requests such transcription. Such a request must be filed with the clerk who will be responsible for making the transcript. A transcription will be made only of that portion of the oral hearing relevant to the appeal or review if so requested and if no objection is made by any other party to the proceeding or the director.

7.20(3) Upon request, the department shall provide a copy of the whole record or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party. Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means bear the cost of that recording unless otherwise provided by law.

7.20(4) Upon issuance of a proposed decision that leaves no issues open for further consideration or upon issuance of a closing order, the administrative hearings division shall promptly forward the record of a contested case proceeding to the director. However, the administrative hearings division may keep the tapes of any evidentiary proceeding in case a transcript of the proceeding is required and, if one is required, the administrative hearings division shall make the transcription and promptly forward the tapes and the transcription to the director.

This rule is intended to implement Iowa Code section 17A.12.

701—7.21(17A) Application for rehearing. Any party to a contested case may file an application with the director for a rehearing in the contested case with the clerk in one of the manners described in subrule 7.3(1), stating the specific grounds therefor and the relief sought. The application must be filed within 20 days after the final order is issued. A copy of such application shall be timely served by the applicant on all parties in conformity with rule 701—7.3(17A). The director shall have 20 days from the filing of the application for rehearing to grant or deny the application. If the application for rehearing is granted, a notice will be served on the parties stating the time and place of the rehearing. An application for rehearing is deemed denied if not granted by the director within 20 days after filing.

7.21(1) The application for rehearing shall contain a caption in the following form:

BEFORE THE DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____	*	
(state taxpayer's name and address and	*	APPLICATION FOR REHEARING
designate type of proceeding, e.g.,	*	Docket No. _____
income tax refund claim)	*	

7.21(2) The application for rehearing shall substantially state in separate numbered paragraphs the following:

- a. Clear and concise statements of the reasons for requesting a rehearing and each and every error that the party alleges to have been committed during the contested case proceedings;
- b. Clear and concise statements of all relevant facts upon which the party relies;
- c. Reference to any particular statute or statutes and any rule or rules involved;
- d. The signature of the party or that of the party's representative, the address of the party or of the party's representative, and the telephone number of the party or the party's representative.

7.21(3) No applications for rehearing shall be filed with or entertained by an administrative law judge.

This rule is intended to implement Iowa Code section 17A.16.

701—7.22(17A) Ex parte communications and disqualification.

7.22(1) *Ex parte communication.* A party that has knowledge of a prohibited communication by any party or presiding officer should file a copy of the written prohibited communication or a written summary of the prohibited oral communication with the clerk. The clerk will transfer to the presiding officer the filed copy of the prohibited communication.

a. *Prohibited communications.* Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall 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 department 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 this rule, 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. 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.

b. *"Ex parte" communication defined.* Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

c. *How to avoid prohibited communications.* 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 shall be provided in compliance with this chapter and may be supplemented by telephone, facsimile, electronic mail, or other means of notification. Where permitted, oral communications may be initiated through conference telephone calls including all parties or their representatives.

d. *Joint presiding officers.* Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

e. *Advice to presiding officer.* Persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as the parties are not disqualified from participating in the making of a proposed or final decision under any provision of law and the parties comply with these rules.

f. *Procedural communications.* 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 shall notify other parties when seeking to continue hearings or other deadlines.

g. *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 shall be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents shall 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.

h. *Disclosure by presiding officer.* Promptly after receiving the communication or being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall 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.

7.22(2) Disqualification of a presiding officer. Request for disqualification of a presiding officer must be filed in the form of a motion supported by an affidavit asserting an appropriate ground for disqualification. A substitute presiding officer may be appointed by the division of administrative hearings if the disqualified presiding officer is an administrative law judge. If the disqualified presiding officer is the director, the governor must appoint a substitute presiding officer.

a. *Grounds for disqualification.* A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- (1) Has a personal bias or prejudice concerning a party or a representative of a party;
- (2) 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;
- (3) 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;
- (4) Has acted as counsel to any person who is a private party to that proceeding within the past two years;

- (5) 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;
- (6) 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 to the case;
 - 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
- (7) Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

b. Personally investigated. “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 which 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 department functions, including fact gathering for purposes other than investigation of the matter which 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 shall be disclosed if required by Iowa Code section 17A.17 and these rules.

c. Disqualification and the record. In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

d. Motion asserting disqualification.

(1) If a party asserts disqualification on any appropriate ground, the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

(2) If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal and seek a stay as provided under this chapter.

This rule is intended to implement Iowa Code sections 17A.11 and 17A.17.

701—7.23(421) Mailing to the last-known address or personal delivery of notices of assessment and refund denial letters.

7.23(1) *Failure by department to mail to last-known address or personally deliver.*

a. If the department fails to either mail a notice of assessment to the taxpayer’s last-known address or personally deliver the notice to the taxpayer, interest is waived for the month the failure occurs through the month of correct mailing or personal delivery.

b. In addition, if the department fails to either mail to the taxpayer’s last-known address or personally deliver to the taxpayer a notice of assessment or denial of a claim for refund or fails to mail or personally deliver a copy of the notice to the taxpayer’s authorized representative, if applicable, the time period to appeal the notice of assessment or a denial of a claim for refund is suspended until the notice or claim denial is correctly mailed or personally delivered or for a period not to exceed one year, whichever is the lesser period.

c. Collection activities, except in the case of a jeopardy assessment, shall be suspended and the statute of limitations for assessment and collection of the tax shall be tolled during the period in which interest is waived.

7.23(2) *Determination of last-known address.*

a. A taxpayer's last-known address for a particular tax type shall be one of the following most recently updated in the department's records:

- (1) The address provided in an application to register or receive a permit for a particular tax type;
- (2) The address used on the most recent filed and processed Iowa tax return of a particular tax type;
- (3) The address received by the department in a written, concise statement the taxpayer mailed to: Changes in Name or Address, Iowa Department of Revenue, P.O. Box 10465, Des Moines, Iowa 50306;
- (4) The address provided by the taxpayer in GovConnectIowa;
- (5) The address provided by the taxpayer in any correspondence to the department;
- (6) The address the department receives from a third-party skip tracing service; a public or private utility company in response to a subpoena issued pursuant to Iowa Code section 421.17(32); or a federal, state, or local agency.

b. While the determination of last-known address may differ by tax type, a notice of assessment or refund claim denial will be considered to be mailed to the last-known address if it is mailed to the taxpayer's last-known address used for another tax type.

7.23(3) *Mail or personal delivery to a taxpayer.* The following shall constitute personal delivery to a taxpayer:

- a.* Personal service upon a taxpayer by any method deemed sufficient to constitute personal service of an original notice pursuant to the Iowa Rules of Civil Procedure.
- b.* Providing a notice of assessment or refund claim denial to the taxpayer by electronic means based on the taxpayer's election to receive electronic communications in GovConnectIowa.
- c.* Mailing to an address the department receives from a third-party skip tracing service; a public or private utility company in response to a subpoena issued pursuant to Iowa Code section 421.17(32); or a federal, state, or local agency.
- d.* By any other method that is reasonably calculated to result in the taxpayer's actually receiving the notice, if the taxpayer actually receives the notice.

7.23(4) *Mail or personal delivery to authorized representatives.* The department may mail or personally deliver a copy of a notice to an authorized representative by one of the following methods:

- a.* Mailing to the address used on the most recently filed and processed written authorization as described in rule 701—8.8(17A,22,421,422) for the taxpayer the authorized representative is representing, or the most recent address on file;
- b.* In the case of fiduciary or inheritance tax matters, mailing to the address for the authorized representative contained on the most recently filed and processed return;
- c.* By providing the notice electronically through GovConnectIowa or similar method of electronic service;
- d.* By any method deemed sufficient to constitute personal service of an original notice pursuant to the Iowa Rules of Civil Procedure;
- e.* By any other method that is reasonably calculated to result in the authorized representative's actually receiving a copy of the notice if the authorized representative actually receives a copy of the notice.

This rule is intended to implement Iowa Code section 421.60.

701—7.24(441) Appeals of director's rejection of assessor appointment or reappointment.

7.24(1) *Written request for appeal.* Any assessor or conference board wishing to contest the director's rejection of the conference board's appointment of an assessor under 701—subrule 10.15(4) or reappointment of an assessor under 701—subrule 103.16(3) shall file an appeal, in writing, within 30 days of the director's notice of decision. Any person who does not seek an appeal within 30 days of the director's notice shall be precluded from challenging the director's decision.

7.24(2) *Procedures.* Appeals will be governed by the procedures set forth in this rule together with the procedures set forth in the following rules:

- a.* Subrules 7.3(2) and 7.3(3);
- b.* Rule 701—7.7(17A);
- c.* The introductory paragraph of rule 701—7.8(17A) and subrule 7.8(6);

- d. Subrules 7.11(1), 7.11(2), and 7.11(4);
- e. Rule 701—7.12(17A,421);
- f. Subrules 7.13(1) to 7.13(3);
- g. Rule 701—7.14(17A);
- h. Rule 701—7.15(17A);
- i. Rule 701—7.16(17A);
- j. Rule 701—7.17(17A);
- k. Subrule 7.18(1); subrules 7.18(3) through 7.18(7); subrule 7.18(8), except paragraph 7.18(8)“b” related to costs shall not apply; additionally, Iowa Code section 421.60 shall not apply; subrules 7.18(9) and 7.18(12);
- l. Rule 701—7.19(17A);
- m. Rule 701—7.20(17A);
- n. Rule 701—7.21(17A);
- o. Rule 701—7.22(17A); and
- p. Rule 701—8.8(17A,22,421,422).

7.24(3) Presiding officer. The director shall be the presiding officer in a contested case under this rule. The director may request that an administrative law judge assist and advise the director with any matters related to the contested case proceedings, including but not limited to ruling on any prehearing matters, presiding at the contested case hearing, and issuing orders and rulings.

7.24(4) Contents of the appeal. The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department action giving rise to the appeal.
- c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d. Reference to the particular statutes, rules, or agreement terms, if known.
- e. References to and copies of any documents or other evidence relevant to the appeal.
- f. Any other matters deemed relevant to the appeal.
- g. A statement setting forth the relief sought.
- h. The signature, mailing address, and telephone number of the person or that person’s representative.

7.24(5) Burden of proof. The burden of proof is on the party challenging the director’s decision under 701—subrule 10.15(4) or 103.16(3).

This rule is intended to implement Iowa Code section 441.6(3) and chapter 17A.

701—7.25(441) Appeals and hearings regarding the director’s intent to remove a member of the board of review.

7.25(1) Written request for hearing. A member of the board of review who has received a notice of intent to remove from the director and who wishes to contest the removal shall file a written request for a hearing within 30 days after the receipt of the notice of the director’s intent to remove the member. Any person who does not seek a hearing within 30 days of receipt of the notice of the director’s intent to remove shall be precluded from challenging the removal.

7.25(2) Procedures. Hearings will be governed by the procedures set forth in this rule together with the procedures set forth in the following rules:

- a. The introductory paragraph of rule 701—7.7(17A), excluding the first sentence of the introductory paragraph of 701—7.7(17A); and subrule 7.8(6);
- b. Subrule 7.8(1);
- c. 701—7.9(17A);
- d. Subrules 7.11(1) to 7.11(4);
- e. Rule 701—7.12(17A,421);
- f. Rule 701—7.13(17A);
- g. Rule 701—7.14(17A);

- h. Rule 701—7.15(17A);
- i. Subrule 7.18(1); 7.18(3) through 7.18(7); subrule 7.18(8), except paragraph 7.18(8)“b” related to costs shall not apply; additionally, Iowa Code section 421.60 shall not apply; subrules 7.18(9), and 7.18(12);
- j. Rule 701—7.17(17A);
- k. Rule 701—7.18(17A);
- l. Rule 701—7.19(17A);
- m. Rule 701—7.20(17A); and
- n. Rule 701—7.21(17A).

7.25(3) Presiding officer. The director shall be the presiding officer in a contested case under this rule. The director may request that an administrative law judge assist and advise the director with any matters related to the contested case proceedings, including but not limited to ruling on any prehearing matters, presiding at the contested case hearing, and issuing orders and rulings.

7.25(4) Contents of the appeal. The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department action giving rise to the appeal.
- c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d. Reference to the particular statutes, rules, or agreement terms, if known.
- e. References to and copies of any documents or other evidence relevant to the appeal.
- f. Any other matters deemed relevant to the appeal.
- g. A statement setting forth the relief sought.
- h. The signature, mailing address, and telephone number of the person or that person's representative.

7.25(5) Burden of proof. The burden of proof is on the party challenging the director's intent to remove a board member.

This rule is intended to implement Iowa Code section 441.32(2)“e” and chapter 17A.

701—7.26(17A) License and permit denials and revocations.

7.26(1) Specified license or permit denial and revocation processes. Procedures related to alcohol and lottery license denials and revocations are contained in 701—Chapters 1000 and 1102. Procedures related to sales or use tax permit revocations are contained in 701—Chapter 201. For all other license and permit denials, this rule applies.

7.26(2) Denial of license or permit; refusal to renew license or permit.

a. *Written notice in general.* When the department is required by constitution or statute to provide notice and an opportunity for an evidentiary hearing prior to the refusal or denial of a license, the department will serve notice of intent to deny or refuse the license by restricted certified mail or by personal service as in a civil action. The notice will contain a statement of facts or conduct and the provisions of law that warrant the denial of the license or the refusal to renew a license. The notice will provide the licensee or applicant with 30 days to request a hearing and information about how to contact the department to make such a request.

b. *Requesting a hearing.* If a hearing is requested, the matter will be transferred to the administrative hearings office unless retained by the director.

c. *Notice of hearing.* A notice of hearing issued as described in rule 701—7.15(17A) upon the licensee or applicant.

d. *Licensee opportunity to file a petition.* If the licensee so desires, the licensee may file a petition as provided in subrule 7.26(4) with the presiding officer within 30 days prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, rule 701—7.18(17A) governing contested case proceedings shall apply.

e. *Treatment of existing license while matter is pending.* When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a

continuing nature, the existing license does not expire until the application has been finally determined by the department, and in the case the application is denied or the terms of the new license limited, until the last date for seeking judicial review of the department's order or a later date fixed by order of the department or the reviewing court.

7.26(3) Revocation of license.

a. Written notice in general. The department will not revoke, suspend, annul or withdraw any license until written notice is served by restricted certified mail or by personal service as in a civil case. The notice will provide the licensee with the 30 days to request a hearing and information about how to contact the department to make such a request. If a hearing is requested, the matter will be transferred to the division of administrative hearings unless retained by the director. A notice of hearing will be issued by the presiding officer as described in rule 701—7.15(17A) The licensee whose license is to be revoked, suspended, annulled, or withdrawn, will be given an opportunity to show at an evidentiary hearing conducted pursuant to rule 701—7.18(17A) compliance with all lawful requirements for the retention of the license.

b. Contents of notice. In addition to the requirements of rule 701—7.15(17A), the notice shall contain a statement of facts or conduct and the provisions of law that warrant the revocation, suspension, annulment, or withdrawal of the license.

c. Licensee opportunity to file petition. A licensee whose license may be revoked, suspended, annulled, or withdrawn may file a petition as provided in subrule 7.26(4) with the department prior to the hearing. The petition should be filed at the address provided on the notice to revoke, suspend, annul, or withdraw. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, rule 701—7.18(17A) governing contested case proceedings shall apply.

d. Emergency proceedings. Notwithstanding paragraph 7.26(3)“a,” if the department finds that public health, safety, or welfare imperatively requires emergency action and the department incorporates a finding to that effect in an order to the licensee, summary suspension of a license shall be ordered pending proceedings for revocation as provided herein. These proceedings shall be promptly instituted and determined. When a summary suspension as provided herein is ordered, a notice of the time, place and nature of the evidentiary hearing shall be attached to the order.

7.26(4) Petition.

a. When a person desires to file a petition as provided in subrules 7.26(2) and 7.26(3), the petition to be filed shall contain a caption in the following form:

BEFORE THE DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF	*	PETITION
	*	Docket No.
_____ State taxpayer's name and address, and type of license)	*	_____ (filled in by Department)
	*	

b. The petition shall substantially state in separate numbered paragraphs the following:

- (1) The full name and address of the petitioner;
- (2) Reference to the type of license and the relevant statutory authority;
- (3) Clear, concise and complete statements of all relevant facts showing why petitioner's license should not be revoked, refused, or denied;
- (4) Whether a similar license has previously been issued to or held by petitioner or revoked and if revoked the reasons therefor; and
- (5) The signature of the petitioner or petitioner's representative, the address of petitioner and of the petitioner's representative, and the telephone number of petitioner or petitioner's representative.

This rule is intended to implement Iowa Code section 17A.18.

ITEM 8. Adopt the following **new** subrule 201.10(3):

201.10(3) Appeals. The department will provide notice of a sales permit denial according to 701—subrule 7.26(2). Any request for hearing or contested case of the department’s intent to deny a sales tax permit application is governed by rule 701—7.15(17A) and the contested rules in 701—Chapter 7.

ITEM 9. Adopt the following **new** subrule 201.11(3):

201.11(3) Intent to revoke; opportunity for hearing.

a. The department will provide notice of intent to revoke a sales or use tax permit by ordinary mail. A permittee will have 30 days to petition the department for a hearing on the proposed revocation. If the permittee does not petition the department within 30 days, the permit is revoked.

b. If the permittee files a petition for a hearing on the proposed revocation, the department will transmit the case to the division of administrative hearings unless retained by the director. The presiding officer will issue a notice of hearing by restricted certified mail or by personal service as in a civil case. Notice shall contain a statement of facts or conduct and the provisions of law that warrant the revocation of the permit. A hearing may be set no less than ten days from the date of the notice sent under this paragraph. The permittee will be given an opportunity to show at an evidentiary hearing conducted pursuant to rule 701—7.18(17A) compliance with all lawful requirements for the retention of the permit. The permittee may file a petition with the presiding officer prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the permittee prior to the hearing. Thereafter, rule 701—7.18(17A) governing contested case proceedings shall apply.

c. If the department finds that public health, safety, or welfare imperatively requires emergency action and the department incorporates a finding to that effect in an order to the permittee, summary suspension of a permittee shall be ordered pending proceedings for revocation as provided herein. These proceedings shall be promptly instituted and determined. When a summary suspension as provided herein is ordered, a notice of the time, place and nature of the evidentiary hearing shall be attached to the order.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8945C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to forms and communications

The Revenue Department hereby rescinds Chapter 8, “Forms and Communications,” 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 421.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code Title X.

Purpose and Summary

The purpose of this rulemaking is to rescind and adopt new Chapter 8. This chapter describes generally the forms used by the Department, how to obtain them, how to file them, acceptable forms of signatures on forms, and when and how substitute forms may be used. The Department removed portions

of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language pursuant to Executive Order 10.

Rule 701—8.7(422,523) implements the statutory requirement for certain businesses to file tax returns electronically by providing definitions, prescribing acceptable methods for electronic filing, and providing for exceptions to the requirement. This rule was revised to include the moneys and credits tax type, rather than creating a separate new rule dedicated to that tax type. Additionally, a rule on authorized representatives that was removed from Chapter 7 has been moved to this chapter under rule 701—8.8(17A,22,421,422), where it is better suited. This rule provides for how and when third parties may represent a taxpayer before the Department and the circumstances in which a third party may be authorized to receive confidential tax information from the Department.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8341C**. Two public hearings were held on the following date(s):

- December 4, 2024

Public comment was received. The Iowa Taxpayers Association provided comments both orally at the public hearing and via written comment through Iowa Taxpayers Association President and CEO Nate Ristow.

The commenter made a request to clarify and streamline the power of attorney approval process, including the review of subrule 8.8(6), which requires a duplicative representative certification form. The Department is currently developing a more streamlined process that would assist in guiding customers through filing these forms as required. The Department does not believe it is necessary to make changes to rule language for this development to be implemented; therefore, no changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 30, 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, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8 FORMS AND COMMUNICATIONS

701—8.1(421) Definitions. For the purposes of this chapter, the following definitions apply, unless the context otherwise requires:

“*Communication*” means any method of transfer of data, information, or money by any conduit or mechanism.

“*Department*” means the Iowa department of revenue.

“*Department form*” means a form that is distributed by the department.

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

“*Form*” means any overall physical arrangement and general layout of communications, using any method of communication, related to tax, alcohol or other administration and prescribed by the director or otherwise required by law.

“*GovConnectIowa*” means the e-services portal of the department.

“*IRS*” means the federal Internal Revenue Service.

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

“*Return*” means the same as defined in Iowa Code section 421.6.

“*Substitute form*” means a form that is intended to replace a department form.

This rule is intended to implement Iowa Code section 421.14.

701—8.2(421) Department forms.

8.2(1) *Generally.* Department forms may be available in electronic format, on paper, or in other formats as prescribed by the director. Communications with the department, for which department forms have been created, shall be carried out using those forms or substitute forms.

8.2(2) *Compliance with department forms.* Each direction of every instruction contained within or accompanying department forms shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

8.2(3) *Obtaining department forms.* Department forms and instructions may be obtained from Taxpayer Services, Iowa Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; by telephoning 800.367.3388 or 515.281.3114; or on the department’s website at revenue.iowa.gov.

8.2(4) *Filing department forms.* A department form may be filed with the department as directed on the department form or in the corresponding instructions. Filing a department form using any other method requires prior approval from the department. Attempting to file a department form using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.2(5) *Electronic reporting.* No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any other electronic reporting of a department form requires department approval unless otherwise authorized. Electronic reporting may be required for certain taxpayers and tax types. Additional information regarding electronic reporting for income taxes is available at iowaforms.gov. Electronic forms for other tax types administered by the department are available through GovConnectIowa.

8.2(6) *Signatures.*

a. Paper filings. Unless expressly prohibited by state or federal law, a return, application, or other form may be submitted using an original signature, or a copy or facsimile of a signature. For purposes of this rule, “copy or facsimile of a signature” may be a copy or facsimile of an original signature or a copy or facsimile of an electronic signature.

b. Electronic filings. For income tax returns submitted through the IRS e-file program, see rule 701—8.5(422). For all other returns, applications, or other documents, the following applies. Unless expressly prohibited by state or federal law, a return, application or other form accepted by the

department as filed by email or other electronic means may be submitted using an electronic signature or a signature designated by the department in lieu of a handwritten signature. For purposes of this rule, “electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a tax return, application, or other document filed with the department and executed or adopted by a person with the intent to sign the return, application, or other document filed with the department. Electronic signatures appear in many forms and may be created by many different technologies. No specific technology is required. For purposes of this rule, “signature designated by the department” means a symbol or other information that is provided by the department to the taxpayer or the taxpayer’s representative and is to serve instead of the handwritten signature of the taxpayer. In a situation where the taxpayer or the taxpayer’s representative has submitted a return, application, or other document to the department by email, GovConnectIowa, or other electronic means with an electronic signature or signature designated by the department, the department will collect information from the signator to establish the signator’s identity.

This rule is intended to implement Iowa Code sections 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60, and 453A.14.

701—8.3(421) Substitute forms.

8.3(1) *Generally.* A substitute form may be in electronic format, on paper, or created using other media for communication. Approval shall be obtained prior to the use of any substitute form, unless otherwise noted in this rule. The director may change any department form without providing notice to users of any substitute form. The director may require use of department forms in communications with the department concerning tax administration or other matters.

8.3(2) *Types of substitute forms.* Many types of forms may, upon approval when necessary, be substituted for department forms. Descriptions of a partial list follow.

a. Reproduced forms. A reproduced form is a legible photocopy or an exact copy of a department form. A reproduced form may be used without prior approval of the department if the reproduced form meets the following conditions:

(1) The reproduced form does not vary from the department form in size or any other format specification.

(2) No rule prohibits the reproduction of the department form.

(3) The reproduced form does not vary from criteria stated elsewhere in this chapter.

b. Replacement forms. A replacement form is produced by imagery or otherwise replicated using the department form as a model, but it is not an exact copy of a department form. A form that is created in its entirety, including layout, by computer is a replacement form. A replacement form may include modifications, such as line enlargement or copy deletion. A replacement form must receive department approval prior to use.

c. Federal forms. A federal form is a form that is distributed by the IRS. A federal form, or its alternate, may be used without department approval if the form is approved for federal use and Iowa tax instructions or other administrative instructions authorize or require the use of the federal form in lieu of a department form.

8.3(3) *Registration and approval of substitute forms.*

a. Registration. A developer of a substitute form must register with the department by submitting the Registration for Substitute Forms and Barcode Approval. Each registration is valid for one tax year only. Failure to register with the department may, at the discretion of the director, result in the rejection of the developer’s forms and all information contained therein.

b. Approval. Once registered, the developer of a substitute form must request department approval of the form, unless approval is not necessary. The developer may request department approval by submitting a PDF of the form to IDRSubForms@iowa.gov. Those forms listed on the Iowa Substitute Forms Checklist, which is provided with the Registration for Substitute Forms and Barcode Approval, should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration. Attempting to file an unapproved substitute form

with the department may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.3(4) *Quality of substitute forms.*

a. General information. All substitute forms must, to the extent practicable, reflect the same size, color, content, design, and legibility as department forms posted on the department's website at revenue.iowa.gov.

b. Printed substitute forms. When printed on paper, a substitute form must use only black ink or black imaging material, unless the corresponding department form indicates otherwise. A printed substitute form generally must be printed on 20-pound white paper stock with a brightness rating of at least 92 on the TAPPI scale.

c. Distinctive markings and symbols. A department form may contain distinctive symbols. These symbols must be reproduced on any substitute forms.

8.3(5) *Filing substitute forms.* A substitute form may be filed with the department as directed on the corresponding department form or instructions or by any other method approved by the department. Attempting to file a substitute form with the department using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.3(6) *Removable media and electronic reporting.* Submitting a substitute form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a substitute form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by email at IDRSubForms@iowa.gov.

This rule is intended to implement Iowa Code section 421.14.

701—8.4 Reserved.

701—8.5(422) Electronic filing of Iowa income tax returns. There is no statutory requirement that individual income taxpayers file their Iowa income tax returns electronically. Some businesses, estates, and trusts may be required to file Iowa tax returns electronically. Taxpayers not subject to an electronic filing requirement also have the option to file by paper. When a taxpayer files an electronic return, all information related to the return should be electronically transmitted through an approved channel. No information is to be submitted on paper unless specifically requested by the department. A taxpayer's electronic Iowa return shall include the same information as if the taxpayer had filed a paper return.

8.5(1) *Definitions.* For the purpose of this rule, the following definitions apply, unless the context otherwise requires:

"Acknowledgment" means a report generated by the department and sent electronically to a transmitter via the IRS indicating the department's acceptance or rejection of an electronic submission.

"Declaration for e-File Return form" means a taxpayer declaration form that authenticates the electronic tax return, authorizes its transmission, and consents to the financial transaction order as designated using the financial institution information provided.

"Direct debit" means an order for electronic withdrawal of funds from a taxpayer's financial institution account for payment to the department.

"Direct deposit" means an order for electronic transfer of a refund into a taxpayer's financial institution account.

"E-file provider" means a firm that is assigned an Electronic Filing Identification Number (EFIN) by the IRS to assume any one or more of the following IRS e-file provider roles: electronic return originator, intermediate service provider, transmitter, software developer, or reporting agent.

"Electronic filing" means a paperless filing of the Iowa income tax return, order for financial transaction, or both by way of the IRS e-file program, also known as federal/state electronic filing (MeF).

"Electronic return originator" or *"ERO"* means an authorized IRS e-file provider that originates the electronic submission by any one of the following methods: electronically sending an electronic tax

return to a transmitter that will transmit the electronic tax return to the IRS, directly transmitting the electronic tax return to the IRS, or providing the electronic tax return to an Intermediate Service Provider for processing prior to transmission to the IRS.

“Electronic signature” includes data in electronic form, which is logically associated with other data in electronic form and executed or adopted by a person with the intent to sign a document. This type of signature has the same legal standing as a handwritten signature if the requirements in either paragraph 8.5(2)“b” or “c” are met. Electronic signatures appear in many forms and may be created by many different technologies. No specific technology is required.

“Intermediate service provider” means the firm that assists with processing submission information between the ERO (or the taxpayer in the case of online filing) and a transmitter.

“Online filing” means the process for taxpayers to self-prepare returns by entering return data directly into commercially available software, software downloaded from an Internet site and prepared offline, or through an online Internet site.

“Origination of an electronic return” means the action by an ERO of electronically sending the return directly to an Intermediate Service Provider, a transmitter, or the IRS.

“Reporting agent” means a firm that originates the electronic submission of certain returns for its clients or transmits the returns to the IRS in accordance with the IRS electronic filing procedures, or both.

“Software developer” means an approved IRS e-file provider that develops software according to IRS and Iowa specifications for the purposes of formatting electronic returns, transmitting electronic returns directly to the IRS, or both. A software developer may sell its software.

“Stockpiling” means collecting returns from taxpayers or from other e-file providers and waiting more than three calendar days after receiving the information necessary for transmission to transmit the returns to the department.

“Transmitter” means a firm that transmits electronic tax return information directly to the IRS and routes electronic acknowledgments from the IRS (and the states) to the firm originating the electronic return.

8.5(2) Completion and documentation of the electronic return.

a. The electronic submission must match the prepared return. The taxpayer(s) must declare the authenticity of the electronic return before it is transmitted. If the ERO makes changes to the electronic return after the Declaration for e-File Return form has been signed by the taxpayer(s), a new Declaration for e-File Return form must be completed and signed by the taxpayer(s) before the return is transmitted.

b. Electronic signature via remote transaction. In lieu of in-person handwritten signatures, a paid preparer, at the discretion of the taxpayer, may collect taxpayers’ electronic signatures remotely by a process using identity verification and audit trail in the manner that the IRS allows for Form 8879.

c. Electronic signature via in-person transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is physically present with the taxpayer, the ERO must validate the taxpayer’s identity unless there is a multiyear business relationship. A multiyear business relationship is one in which the ERO has originated returns for the taxpayer for a prior tax year and has identified the taxpayer using a valid government picture identification and the method in paragraph 8.5(2)“b.” For in-person transactions, identity verification through a record check is optional.

d. The ERO must provide the taxpayer with a copy of all information to be filed. The taxpayer and ERO must retain all tax documentation for three years. The Declaration for e-File Return form and accompanying schedules are to be furnished to the department only when specifically requested.

8.5(3) Direct deposit and direct debit.

a. Taxpayers designating direct deposit of the Iowa refund or direct debit of payment remitted to the department on electronically filed returns must provide proof of account ownership to the ERO. The department is not responsible for the misapplication of a direct deposit refund or direct debit payment caused by error, negligence, or wrongdoing on the part of the taxpayer, e-file provider, financial institution, or any agent of the above.

b. Once the return has been transmitted, the financial order may not be altered. The department may, when processing procedures allow, grant a taxpayer’s timely request to revoke the financial order.

The taxpayer is responsible for revoking the financial order if the specified payment is not exactly as intended. A direct deposit or direct debit order will be disregarded by the department if the electronic submission is rejected for any reason as indicated in the acknowledgment.

c. The department may, when processing procedures require, convert a direct deposit order to a paper warrant. If a refund is deposited into an incorrect bank account, the department will issue a paper refund warrant once the funds are returned by the financial institution.

d. Payment withdrawal date.

(1) Funds will be withdrawn from the account specified in the direct debit order no sooner than the date specified by the taxpayer.

(2) Payment must be timely made to prevent the assessment of all applicable penalty and interest. A direct debit payment within an electronic submission is considered timely made when:

1. The department accepts the electronic submission;
2. The electronic postmark date is prior to the tax due date;
3. The payment withdrawal date is prior to the tax due date; and
4. The direct debit payment is honored by the specified financial institution.

(3) When the tax due date has not yet elapsed, the withdrawal date should occur on or before the tax due date. Scheduling a withdrawal date after the tax due date will result in the assessment of all applicable penalty and interest unless the taxpayer otherwise makes payment before the tax due date.

(4) When the tax due date has already elapsed, the withdrawal date should specify immediate payment to prevent the accrual of additional interest.

(5) Withdrawal cannot occur prior to the electronic postmark date. When the taxpayer attempts to schedule a withdrawal date that is prior to the electronic postmark date, the electronic postmark date is the withdrawal date.

(6) If a taxpayer wants to change the withdrawal date specified in a financial order, the taxpayer must revoke the financial order and submit a new financial order. If the department determines that the taxpayer may have erroneously scheduled a withdrawal date, the department may notify the taxpayer of the possible error, but the department is not required to do so.

8.5(4) *Software approval.* Software developers that want to develop electronic submission formatting software for e-filing Iowa returns shall register their respective software products annually with the department. The department publishes specifications, test packages, and testing procedures. Software must pass transmission tests before the department will approve it for electronic filing of Iowa income tax returns. The department will define the test period annually.

8.5(5) *ERO acceptance to participate.* Once accepted by the IRS as an ERO for a specific tax type, the ERO is automatically accepted to e-file Iowa returns of that tax type, provided that the department offers the tax type for e-file.

8.5(6) *Suspension of an e-file provider from participation in the Iowa electronic filing program.*

a. The department may immediately suspend, without notice, an e-file provider from the Iowa electronic filing program. In most cases, a suspension is effective as of the date of the letter informing the e-file provider of the suspension. Before suspending an e-file provider, the department may issue a warning letter describing specific corrective action required to correct deviations set forth in paragraph 8.5(6) "b." An e-file provider will be automatically prohibited from participating in the Iowa electronic filing program if denied participation in, or suspended from, the federal electronic filing program.

b. An e-file provider that is eligible to participate in the federal electronic filing program may be suspended from the Iowa electronic filing program if any of the following conditions occur. The list is for illustrative purposes only and is not deemed to be all-inclusive.

- (1) Deterioration in the format of electronic returns transmitted.
- (2) Unacceptable cumulative error or rejection rate or failure to correct errors resulting from the transmission of electronic returns.
- (3) Untimely received, illegible, incomplete, missing, or unapproved substitute Declaration for e-File Return forms when requested by the department.
- (4) Stockpiling returns at any time while participating in the Iowa electronic filing program.

- (5) Failure on the part of the transmitter to retrieve acknowledgments within two working days of the department's providing them.
- (6) Failure on the part of the transmitter to initiate the communication of acknowledgments to the ERO within two working days of the department's providing them.
- (7) Significant complaints about the e-file provider.
- (8) Failure on the part of the e-file provider to cooperate with the department's efforts to monitor e-file providers, investigate electronic filing abuse, and investigate the possible filing of fraudulent returns.
- (9) Submitting the electronic return with information that is not identical to information on the Declaration for e-File Return form.
- (10) Transmitting the electronic return with software not approved by the department for use in the Iowa electronic filing program for the given tax type and tax period.
- (11) Failure on the part of the e-file provider to provide W-2s, 1099s, or out-of-state tax returns when requested by the department.

8.5(7) *Administrative procedure for denial of participation or suspension of participation.*

a. When a firm has requested participation in the Iowa electronic filing program but there is reason to deny the request, the department shall send written notice to the firm advising that entry into the program has been denied. When an e-file provider is a participant in the Iowa electronic filing program but is to be suspended from the program for any condition described in subrule 8.5(6), the department will send written notice to notify the e-file provider about its suspension from the program.

b. When the firm either disagrees with the denial of participation or the suspension from participation, the firm must file a written appeal to the department within 60 days of the date of the denial or the suspension. The written appeal must be filed pursuant to rule 701—7.8(17A). During the administrative review process, the denial of the firm's participation in or the suspension of the firm from the Iowa electronic filing program shall remain in effect.

This rule is intended to implement Iowa Code sections 422.21 and 422.68.

701—8.6(421) Electing to receive communications in electronic format in lieu of paper. A taxpayer that is a registered account holder in GovConnectIowa may elect to receive notices, correspondence, or other communication electronically through GovConnectIowa in lieu of receiving them by mail.

8.6(1) *How to make the election.* The election must be made by selecting the appropriate setting on GovConnectIowa.

8.6(2) *Limitations.*

a. This election only exists for persons registered in GovConnectIowa.

b. Unless specified elsewhere in rule, this option is limited to notices, correspondence, or other communications on tax types managed in GovConnectIowa.

c. Where the department finds it beneficial to continue to send items by regular mail, the department may continue to send regular mail even if an electronic copy is also provided and even if the person elects to receive electronic mail.

8.6(3) *When service occurs.* If the department sends a notice, correspondence, or other communication by both mail and electronic communication, service occurs upon the earlier of when the communication is posted to GovConnectIowa or mailed.

8.6(4) *Taxpayer authorized representatives.* Authorized representatives as described in rule 701—8.8(17A,22,421,422) cannot opt out of paper mail for the taxpayers they represent. For each account an authorized representative represents, the authorized representative will receive paper copies of notices, correspondence, or other communication sent to the represented taxpayer. If the authorized representative creates a login and requests and is granted account access for the represented taxpayer, the authorized representative will be able to view electronic versions of the notices, correspondence, or other communication the represented taxpayer receives, but the authorized representative will still receive paper copies of those notices, correspondence, or other communication.

This rule is intended to implement Iowa Code section 421.60(11).

701—8.7(422,533) Mandatory electronic filing for certain business entity and fiduciary taxpayers. Iowa corporate and fiduciary income and franchise taxpayers, credit unions subject to the moneys and credits tax, and pass-through entities subject to Iowa income reporting requirements, are required to file their annual returns in an electronic format approved by the department for any tax year in which certain criteria are met. This rule provides information needed to determine whether any entity is subject to this electronic filing requirement for a given tax year.

8.7(1) Definitions.

“*Business entity*,” when used in this rule, means entities taxed as corporations, partnerships, S corporations, and financial institutions as defined in Iowa Code section 422.61.

“*Fiduciary taxpayer*” means the same as “fiduciary” as defined in Iowa Code section 422.4.

“*Iowa tax credits*” means refundable and nonrefundable tax credits authorized under the Iowa Code for the tax year in which they are claimed or applied, but does not include credits for prior payments.

“*Return*,” when used in this rule, means Form IA 1120, IA 1120S, IA 1120F, IA 1065, IA PTE-C, IA 1041, or Iowa credit union moneys and credits tax return, as context requires, and includes amended returns, supporting schedules, attachments, or lists that are supplemental to or part of the filed return.

“*Taxpayer*,” unless the context otherwise requires, means any business entity, financial institution, credit union or fiduciary taxpayer as defined in this rule.

“*Tax year*” means any period of up to 12 months, including periods of less than 12 months, for which a taxpayer subject to this rule is required to file an Iowa income tax, franchise tax, moneys and credits, or information return.

“*Total gross receipts*” means gross receipts or sales from all business operations conducted within and without Iowa without any adjustment for returns and allowances, and also includes receipts from all interest, dividends, rents, and royalties; income from ordinary and capital gains; and the distributive share of income received by the taxpayer from a partnership, S corporation, estate, or trust.

8.7(2) Electronic format for filing. The following are the only approved methods of electronic filing:

a. *Business entity and fiduciary taxpayers.* A business entity or fiduciary taxpayer that meets any of the criteria for mandatory electronic filing in subrule 8.7(3) shall file a paperless Iowa income or franchise tax return by way of the Internal Revenue Service (IRS) Modernized e-File (MeF) program, also known as federal/state electronic filing, in a manner consistent with the requirements of rule 701—8.5(422).

b. *Moneys and credits taxpayers.* Credit unions shall file a paperless Iowa moneys and credits tax return using an electronic form provided by the department through GovConnectIowa.

8.7(3) Criteria for mandatory electronic filing. This subrule applies to business entities for tax years ending on or after December 31, 2022; to fiduciary taxpayers for tax years ending on or after December 31, 2023; and to moneys and credits taxpayers for any tax year ending on or after December 31, 2024. Every taxpayer required to file an Iowa income, franchise, or moneys and credits tax return for an applicable year must file using the electronic format specified in subrule 8.7(2) if the taxpayer meets any of the following criteria for the tax year:

a. *Gross receipts.* The taxpayer has \$250,000 or more in total gross receipts for the tax year.

b. *Iowa tax credits.* The taxpayer claims or applies \$25,000 or more of Iowa tax credits on the return for the tax year.

c. *Iowa Schedules K-1.* The taxpayer is required to issue ten or more Iowa Schedules K-1 to its partners, members, shareholders, or beneficiaries for the tax year.

d. *Consolidated corporate return.* The taxpayer elects or is required to file or be included on an Iowa consolidated corporate income tax return under Iowa Code section 422.37 for the tax year.

e. *Moneys and credits return.* All credit unions required to file an Iowa moneys and credits tax return for a tax year are required to file electronically.

f. *Composite return.* Any partnership, S corporation, or fiduciary filer that is both required to file an Iowa composite return and required to electronically file an income tax return for any period under this subrule must also electronically file the composite return for that period.

8.7(4) *Returns not in compliance with this rule.* Any return filed in any manner other than the manner specified in subrule 8.7(2) by a taxpayer that meets any of the criteria for mandatory electronic filing as described in subrule 8.7(3) is not a valid return. The taxpayer is a nonfiler for the tax year for which the return was required, and may be subject to the failure to file penalties as provided for in rules 701—10.6(421) and 701—10.9(421), until such time as the taxpayer files the return in the proper electronic format. This subrule shall not apply if an exception has been granted under subrule 8.7(5).

8.7(5) *Exceptions.* At the department's discretion, exceptions to the electronic filing requirement under this rule may be granted for good cause. The taxpayer bears the burden to prove that good cause exists for the failure to file electronically. Except as provided in paragraph 8.7(5) "b," a claim that the return preparation software purchased or licensed by a taxpayer or taxpayer's return preparer does not include all of the features necessary to comply with the taxpayer's Iowa filing obligations shall not be considered good cause for purposes of granting an exception to the electronic filing requirement.

a. Requests for exceptions to the electronic filing requirement.

(1) Form of request. Requests for exceptions to the electronic filing requirement must be submitted by mail or online through GovConnectIowa on forms provided by the department.

(2) Timing of request. Requests for exceptions to the electronic filing requirement must be submitted before the return is filed.

(3) Department determination. The department will notify the taxpayer in writing whether a request for an exception to the electronic filing requirement has been approved or denied. If the department does not respond to a taxpayer's valid request for an exception to the electronic filing requirement within 90 days of the date the request is received, the request shall be deemed accepted.

(4) Applicability of exception. An exception to the electronic filing requirement, if granted, shall only be valid for the tax year for which it was approved.

b. Special relief provided by the department. The department may, at its discretion, offer a good-cause exception to the electronic filing requirement for filers of a specific return type or form for a specific filing period by providing such an exception in the instructions for that return type or form or by an order issued by the director. Taxpayers must comply with all instructions provided by the department in order to qualify for relief.

c. Temporary one-time relief for business entity and fiduciary taxpayers. For tax years ending on or before December 31, 2023, if the department determines a taxpayer that filed a paper return was required to file in an electronic manner as provided in this rule, the department will notify the taxpayer in writing of the requirements of this rule. If the taxpayer properly files in an electronic manner within 30 days of the date of the notification under this paragraph, the department shall grant an exception to the requirements of this rule and deem the originally filed paper return a valid return. A taxpayer shall only be granted the benefit of this paragraph for one eligible return.

d. Temporary one-time relief for moneys and credits taxpayers. For tax years ending on or before December 31, 2024, if the department determines a moneys and credits taxpayer that filed a paper return was required to file in an electronic manner as provided in this rule, the department will notify the taxpayer in writing of the requirements of this rule. If the taxpayer properly files in an electronic manner within 30 days of the date of the notification under this paragraph, the department shall grant an exception to the requirements of this rule and deem the originally filed paper return a valid return. A taxpayer shall only be granted the benefit of this paragraph for one eligible return.

This rule is intended to implement 2022 Iowa Acts, House File 2552, division II.

701—8.8(17A,22,421,422) Authorized representatives—powers of attorney and representative certifications. No individual will be recognized as representing any taxpayer in regard to any tax claim, tax appeal, or other tax matter before the department or in any communication with or hearing before the department, or any agent thereof, unless a written authorization in compliance with this rule and Iowa Code section 421.59 is first filed with the department. If a taxpayer wishes to allow the department to discuss otherwise confidential tax matters with an individual without giving that individual authority to act on the taxpayer's behalf, the taxpayer must provide the department with written authorization to disclose such confidential tax information as provided in rule 701—5.7(17A,22,99G,123,421-454).

8.8(1) *Individuals authorized to represent a taxpayer, generally; transfers of decision-making authority.*

a. If a taxpayer wishes to have any other individual act on the taxpayer's behalf in matters before the department, the taxpayer must file with the department an IDR power of attorney form, as described in subrule 8.8(5), authorizing that individual to do so. This applies even if an individual desires to represent a taxpayer only through correspondence with the department but does not intend to personally appear before the department in a hearing or conference.

b. Individuals with the authority to act on behalf of a taxpayer, including pursuant to Iowa Code section 421.59(2) or chapter 633B, must file a representative certification form as described in subrule 8.8(6).

8.8(2) *Powers authorized.*

a. An IDR power of attorney or representative certification form, or other form designated by the department, as applicable, is required by the department before an individual can perform one or more of the following acts on behalf of the taxpayer:

(1) To receive copies of any notices or documents sent by the department, its representatives, or its attorneys.

(2) To receive, but not to endorse or collect, checks made payable to the taxpayer in payment of a refund of Iowa taxes, penalties, or interest. Certain representatives with a valid representative certification form or equivalent authorization may be authorized to receive, endorse, and collect checks made payable to the taxpayer in payment of a refund of Iowa taxes, penalties, or interest.

(3) To execute waivers (including offers of waiver) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.

(4) To execute consents extending the statutory period for assessment or collection of taxes.

(5) To fully represent the taxpayer in any hearing, determination, final or otherwise, or appeal. Subrule 8.8(8) contains additional requirements.

(6) To enter into any settlement or compromise with the department.

(7) To execute any release from liability necessary as a prerequisite to divulging otherwise confidential information concerning the taxpayer.

(8) To authorize a third party as authorized representative or disclosure designee for the taxpayer.

(9) To waive, withdraw, or dismiss any claims or defenses or amend a pleading, to the extent permitted by subrule 7.8(7).

b. The taxpayer may limit the scope of the authority of an authorized representative appointed via an IDR power of attorney form by expressly stating the limitations, if any, on the IDR power of attorney form submitted to the department. The scope of authority of an authorized representative may not expand beyond those powers authorized in this rule.

8.8(3) *Submitting a form.*

a. Submit separately. An IDR power of attorney form or representative certification is not accepted as an attachment to a tax return except as provided by these rules. A power of attorney form or representative certification form must be submitted in accordance with the submission instructions on the form(s).

b. Original or electronic forms accepted. The department may accept either an original form, an electronically scanned and transmitted form, or a copy of a form. A copy received by facsimile transmission (fax) or email may be accepted.

c. Timely submission. The form must be submitted within six months of the date of signature, or it will be considered invalid.

d. Appointment of a representative via another form. The department designates certain returns or other departmental forms on which a taxpayer may appoint an authorized representative.

e. Signature. The signature on the form must be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization.

8.8(4) *Communications with represented taxpayers.* Any notice or other written communication (or copy thereof) from the department provided to the authorized representative, where required or permitted to be given to the taxpayer, will be given to the taxpayer as well.

8.8(5) Powers of attorney. Taxpayers must ensure that all required fields of the IDR power of attorney form are properly completed.

a. Individuals who may execute an IDR power of attorney form. Individuals who are permitted to execute an IDR power of attorney form are as follows:

(1) Individual. In matters involving an individual taxpayer, an IDR power of attorney form must be signed by the taxpayer or the taxpayer's authorized representative.

(2) Joint or combined returns. In matters involving a joint return, each taxpayer must complete and submit an IDR power of attorney form, even if the taxpayers are represented by the same appointee(s). In any matter concerning a joint return, the authorized representative of one spouse cannot perform any act with respect to a tax matter that the spouse represented cannot perform alone.

b. Contents of the IDR power of attorney form. A valid IDR power of attorney form contains the following information:

(1) Legal name and address of the taxpayer;

(2) Identification number of the taxpayer (i.e., social security number (SSN), federal employer identification number (FEIN), or any federal- or Iowa-issued tax identification number), or other number as approved by the department;

(3) Name, mailing address, and identification number of the representative (i.e., preparer's tax identification number (PTIN), SSN, centralized authorization file (CAF) number, any federal- or Iowa-issued tax identification number, or other number as approved by the department);

(4) Description of the matter(s) for which representation is authorized, which may include:

1. The type of tax(es) involved or an indication that all tax types are within the scope of authority;

2. The specific year(s) or period(s) involved or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date);

3. Iowa tax permit number;

4. No limitation on tax type, year/period, or permit will allow the authorized representative to act for any tax type/year/period/permit.

(5) A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 8.8(2).

(6) A signature on the form, which may be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization.

(7) Any other information required by the department.

c. Authorization period for an IDR power of attorney form.

(1) An IDR power of attorney form may be used to authorize representation for tax periods that end within three years after the date on which the form is signed by the taxpayer. The authority granted may concern an unlimited number of tax periods that have ended prior to the date on which the IDR power of attorney form is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax period section is left blank, all tax periods, including those ending up to three years in the future, are included.

(2) The authority granted by an IDR power of attorney form ceases to be effective for tax periods as defined in subparagraph 8.8(5) "c"(1) upon revocation by the taxpayer; incapacity of the taxpayer; death of the taxpayer; or withdrawal, death, or incapacity of the authorized representative.

d. Evaluation of documentation provided. The department will evaluate the IDR power of attorney form and any additional documentation to confirm authority. Authority to act before the department only covers those matters and time frames covered by the submitted documentation. The party claiming authority to act before the department on behalf of a taxpayer has the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authority.

e. Revocation and withdrawal.

(1) Revocation by the taxpayer.

1. By written statement. By filing a statement of revocation with the department, a taxpayer may revoke authority granted by an IDR power of attorney form without authorizing a new representative. The statement of revocation must indicate that the authority of the previous representative is revoked and be signed by the taxpayer. The name and address of each representative whose authority is revoked must

be listed (or a copy of the prior IDR power of attorney form must be attached). If the writing indicates that authorization should be revoked from “all” authorized representatives, this will apply to all representatives appointed via an IDR power of attorney form or an entity representative form.

2. By filing a new IDR power of attorney form. Filing a new IDR power of attorney form for a particular tax type(s) and tax period(s) automatically revokes a previously granted authority for the same tax type(s) and tax period(s). For a previously designated authorized representative to remain as the taxpayer’s authorized representative when a subsequent IDR power of attorney form is filed, the taxpayer must include the representative on the newly submitted IDR power of attorney form. This rule applies regardless of whether the power of attorney authority is authorized by an IDR power of attorney form or on a return as described in subrule 8.8(7). This subrule does not apply to entities appointed as authorized entity representatives under subrule 8.8(9).

(2) Withdrawal by the authorized representative. By filing a statement with the department, an authorized representative may withdraw from representation in a matter in which an IDR power of attorney form has been filed. The statement must be signed by the representative and identify the name, identification number, and address of the taxpayer(s); the name, address and identification number of the representative withdrawing; and the matter(s) from which the representative is withdrawing. A representative may withdraw from multiple matters by including with the statement a list of all matters and taxpayers for which withdrawal is desired.

(3) Administrative revocation by the department. The department may administratively revoke any third-party access authority, including those appointed via the IDR power of attorney form or representative certification form.

8.8(6) Representative certification; durable and general powers of attorney.

a. *Authorized representatives.* Individuals with the authority to act on behalf of a taxpayer granted outside of IDR, including pursuant to Iowa Code section 421.59(2) or chapter 633B, must file with the department a form certifying their authority to represent the taxpayer prior to utilizing that authority with the department. Individuals authorized by an IDR power of attorney form should not file a representative certification form for themselves.

b. *Contents of the representative certification form.* The representative certification form must include the following information:

- (1) Legal name and address of the taxpayer;
- (2) Identification number of the taxpayer (i.e., SSN, FEIN, any federal- or Iowa-issued tax identification number relative to matters covered by the IDR power of attorney form, or other number as approved by the department);
- (3) Name, mailing address, and identification number (i.e., SSN, CAF number, any federal- or Iowa-issued tax identification number, or other number as approved by the department) of the representative.
- (4) Proof of authority must be included with the form as follows:
 1. Durable power of attorney or general power of attorney other than an IDR power of attorney form: a copy of the power of attorney document;
 2. Guardian, conservator, or custodian appointed by a court: documentation as required in Iowa Code section 421.59(2) “a”;
 3. Receiver appointed pursuant to Iowa Code chapter 680: a copy of the relevant court order(s);
 4. Licensed attorney appearing on behalf of the taxpayer or the taxpayer’s estate in a court proceeding: a copy of the filed notice of appearance in the relevant court proceeding;
 5. Parent or guardian of a minor taxpayer: a copy of the return signed by the parent or guardian or proof of status as parent or guardian, such as a birth certificate or equivalent document, stating parent and minor taxpayer’s names, as well as the minor taxpayer’s date of birth. By submitting a copy of a return signed by the parent or guardian, the parent or guardian will only have authority in relation to that return. Without other authorization, such as a court-ordered guardianship, a parent’s right to access a minor taxpayer’s account will cease when the minor taxpayer reaches majority;
 6. Executor or personal representative: a copy of the will or court order appointing the individual;

7. Trustee: a copy of the certificate of trust, trust document, or court order appointing the representative;

8. The following categories of authorized representative do not require documentation:

- Individual holding one of the following titles within a corporation, association, partnership, or other entity:

- Officer/employee of corporation/association;
- Designated partner authorized to act on behalf of a partnership;
- Individual authorized to act on behalf of a limited liability company in tax matters;
- Governmental representative.
- Successor of a very small estate under Iowa Code section 633.356(2).

(5) Affirmation of authority to act on behalf of the taxpayer, and agreement to only act within that authority. Affirmation will be signed under penalty of perjury.

(6) A signature of the representative on the form, which must be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization;

(7) Any other information requested by the department.

c. *Evaluation of documentation provided.* The department will evaluate documentation submitted in support of a representative certification to confirm authority. Authority to act before the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authority to act before the department on behalf of a taxpayer has the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authority.

d. *Revocation.* A representative certification may be revoked in the following ways:

(1) By the representative being withdrawn, following procedures in subparagraph 8.8(5) “e”(2).

(2) By the taxpayer, following procedures in subparagraph 8.8(5) “e”(1).

(3) By another representative. An authorized representative properly appointed by a representative certification or an IDR power of attorney form may notify the department that an authorized representative no longer has authority to act on behalf of the taxpayer by filing a statement of revocation with the department. The notification statement must indicate the taxpayer’s name, address, and identification; state that the authority of the former representative has ceased; and be signed by a current authorized representative. Also, the name and address of each representative who no longer has authority must be listed (or a copy of the prior representative certification form must be attached).

(4) Administrative revocation by the department, following procedures in paragraph 8.8(5) “e.”

8.8(7) *Returns that may be used to grant power of attorney authority.* An IDR power of attorney form is not needed for individuals who have been named as an authorized representative on a fiduciary return of income filed under Iowa Code section 422.14, a corporation or S corporation return filed under Iowa Code section 422.36 or 422.37, a partnership return filed under Iowa Code section 422.15, a franchise tax return filed under Iowa Code section 422.62, a moneys and credits return filed under Iowa Code section 533.329, or a tax return filed under Iowa Code chapter 450.

8.8(8) *Individuals authorized to represent themselves or others in a contested case proceeding.* The right to represent oneself or others in connection with any contested case proceeding before the department or administrative hearings division is limited to the following classes of individuals, so long as such representation is not barred by another provision of law. Representatives must have a valid IDR power of attorney form or valid representative certification form on file with the department to represent others in a contested case proceeding. The right to represent a taxpayer before the department or the administrative hearings division does not confer the right to represent the taxpayer in a judicial proceeding.

a. Individuals representing themselves. One spouse may not represent the other in contested case proceedings unless the spouse is acting in a capacity described in paragraphs 8.8(8) “b” through “j”;

b. Attorneys duly qualified and entitled to practice in the courts of the state of Iowa;

c. Attorneys who are entitled to practice before the highest court of record of any other state and who have complied with the requirements for admission to practice before the courts of the state of Iowa pro hac vice;

- d. Accountants who are authorized, permitted, or licensed under Iowa Code chapter 542;
- e. Duly authorized directors or officers of corporations representing the corporation of which they are respectively a director or officer. Attorneys who are acting in the capacity of a director or officer of a corporation must comply with paragraph 8.8(8) “b” or “c”;
- f. Partners representing their partnership. Attorneys who are acting in the capacity of a partner must meet the requirements of paragraph 8.8(8) “b” or “c”;
- g. Fiduciaries including trustees, receivers, guardians, personal representatives, administrators, and executors. For purposes of this rule, a fiduciary is considered to be the taxpayer and not a representative of the taxpayer;
- h. Government officials authorized by law;
- i. Enrolled agents, currently enrolled under 31 CFR Section 10.6(2011) for practice before the IRS, representing a taxpayer in proceedings under Iowa Code chapter 422; and
- j. Conservators, guardians, or durable powers of attorney appointed to handle tax matters.

8.8(9) *Entities as authorized representatives.*

a. Appointment.

(1) A taxpayer may authorize an entity to act on its behalf in tax-related matters by following the procedures described in this subrule in a manner approved by the department. By appointing an authorized entity representative, the taxpayer consents to the authorized entity representative, and any individuals submitted to the department by the authorized entity representative, as described in paragraph 8.8(9) “c,” sending and receiving the taxpayer’s information to and from the department and taking any other action described in these rules. By appointing an authorized entity representative, the taxpayer understands that the authorized entity representative is solely responsible for maintaining an accurate list of individuals allowed to act on the taxpayer’s behalf. The taxpayer agrees that any improper disclosure or use of the taxpayer’s information by the entity or entity’s current or former employees, agents, or contractors is solely the responsibility of the entity and the entity’s employees, agents, or contractors. The department is not liable for any acts or omissions of the entity or the entity’s employees, agents, or contractors.

(2) The taxpayer’s consent must be in writing, in a form specified by the department, including a signature and date. The signature must be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization.

b. Department approval of authorized entity representatives.

(1) The department will review authorized entity representative appointments.

(2) The department has the authority to approve, deny, or remove third-party access to any entity or individual employee upon review.

c. Duties of the authorized entity representative.

(1) The authorized entity representative is responsible for managing access for individual employees that it authorizes to act on behalf of the taxpayer in a manner defined by the department. The authorized entity representative provides the department a single point of contact for matters involving the entity’s status as an approved entity representative.

(2) The authorized entity representative single point of contact must have a valid IA 2848 or representative certification form on file on behalf of the authorized entity representative.

(3) The authorized entity representative will provide information regarding each individual employee authorized to act on behalf of the taxpayer as determined by the department. This information will be used to identify the individual employee when contacting the department. The authorized entity representative will maintain with the department an accurate and up-to-date list of individual employees that the authorized entity representative has authorized to act on a taxpayer’s behalf under this rule. The authorized entity representative will remove any individuals from its list with the department as soon as an individual is no longer employed by the entity or is no longer authorized by the entity to act on behalf of a taxpayer. The authorized entity representative shall submit all information and changes to information to the department via GovConnectIowa.

(4) The authorized entity representative is responsible for the actions taken by its employees, agents, and contractors on behalf of the taxpayer.

(5) The authorized entity representative shall remain in good standing with the department.

d. Powers authorized. An authorized entity representative may be granted any or all of the powers described in subrule 8.8(2). The taxpayer may limit the authorized entity representative as described therein and by tax type. If the tax type field is left blank, all tax types are included within the scope of the authorized entity representative's authority.

e. Contents of form. A valid IDR authorized entity representative form contains the information specified in paragraph 8.8(5) "b."

f. Authorization period.

(1) An authorized entity representative may be used to authorize representation for an unlimited number of tax periods prior to or following the date on which the form is received by the department. If the tax period is left blank, all tax periods are included.

(2) At any time while the taxpayer has an effective authorized entity representative appointment filed with the department, the taxpayer consents to allowing the authorized entity representative and any individuals listed by the authorized entity representative, as described in paragraph 8.8(9) "c," to send and receive the taxpayer's information to and from the department and take any other action described in these rules.

(3) The authority granted by an IDR power of attorney form ceases to be effective upon revocation by the taxpayer or withdrawal or dissolution of the authorized entity representative. It is the sole responsibility of the taxpayer to revoke an authorized entity representative.

g. Revocation and withdrawal.

(1) Revocation by the taxpayer. Such appointment may be revoked by the taxpayer at any time, via GovConnectIowa or in writing to the department. The revocation must include the name and identification number of the taxpayer, the name of the representative entity, an indication of the wish to withdraw, and the taxpayer's dated signature. If the revocation indicates that authorization should be revoked from "all" authorized representatives, this will apply to all representatives appointed via an IDR power of attorney form or entity representative form.

(2) Withdrawal by the authorized entity representative. By filing a statement with the department, an authorized entity representative may withdraw from representation appointed under this subrule. The statement must be signed by the authorized entity representative single point of contact and must identify the name and address of the taxpayer(s) and the matter(s) from which the authorized entity representative is withdrawing. An authorized entity representative may withdraw from multiple matters by including with the statement a list of all matters and taxpayers for which withdrawal is desired. Such statement shall be signed by the authorized entity representative single point of contact.

(3) Administrative revocation by the department. The department may administratively revoke any entity representative authority.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8946C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to interest, penalty, and exceptions to penalty

The Revenue Department hereby rescinds Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," and adopts a new Chapter 10, "Interest, Penalty, and Exceptions to Penalty," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 421.7, 421.27 and 421.60.

Purpose and Summary

The purpose of this rulemaking is to rescind and adopt new Chapter 10, which implements statutes relating to penalties and interest associated with Iowa tax filings. The Department removes portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language pursuant to Executive Order 10. Additionally, rules on the order of application of payments and jeopardy assessments were removed from this chapter and adopted under Chapter 11 in a separate rulemaking to be in a general administration chapter, where they are better suited.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8331C**. Two public hearings were held on the following date(s):

- December 4, 2024

Public comment was received. The Iowa Taxpayers Association provided comments both orally at the public hearing and via written comment through Iowa Taxpayers Association President and CEO Nate Ristow. The commenter made a request to retain current subparagraph 10.7(3)“b”(4), the omission of which resulted in the removal of language regarding the automatic application of the “1 in 36 waiver.”

This subparagraph was proposed to be removed due to Executive Order 10 requiring the removal of outdated information. The automatic application of the “1 in 36 waiver” was discontinued after the Department’s modernization roll-out of GovConnectIowa went live in November 2021. Since that time, taxpayers have been required to apply for the waiver manually. Additionally, in the event that there are multiple penalties eligible for this waiver, the manual application process allows a taxpayer to choose which penalty to be waived. No substantive changes from the Notice have been made to the text after publication, in response to public comment or otherwise. One incorrect Iowa Code reference has been fixed, and missing implementation sentences have been added to rules 701—10.6(421) and 701—10.7(421).

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 30, 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, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
INTEREST, PENALTY, AND EXCEPTIONS TO PENALTY

701—10.1(421) Definitions. As used in the rules contained herein, the following definitions apply unless the context otherwise requires:

“*Department*” means the Iowa department of revenue.

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

“*Taxes*” means all taxes and charges arising under Title X of the Iowa Code, and all other taxes administered by the department including but not limited to the moneys and credits tax arising under Iowa Code section 533.329, except the beer barrel tax under Iowa Code section 123.136 and the wine gallonage tax under Iowa Code section 123.183.

This rule is intended to implement Iowa Code chapter 421.

701—10.2(421) Interest.

10.2(1) Rate determination. Except where a different rate of interest is provided by Title X of the Iowa Code, the rate of interest on interest-bearing taxes and interest-bearing refunds arising under Title X is fixed for each calendar year by the director. In addition to any penalty computed, there shall be added interest as provided by law from the original due date of the return. Any portion of the tax imposed by statute that has been erroneously refunded and is recoverable by the department shall bear interest as provided in Iowa Code section 421.7(2) from the date of payment of the refund, considering each fraction of a month as an entire month.

10.2(2) Examples of the application of interest. The following scenarios demonstrate how interest will be applied to tax liabilities and refunds under various fact patterns. For purposes of these examples, the interest rate in effect for year one is 5 percent per year, the interest rate in effect for year two is 7.5 percent per year, and the interest rate in effect for year three is 10 percent per year.

EXAMPLE 1: The taxpayer, A Corp, owes corporate income taxes assessed for tax year zero. The assessment was made by the department in year one. On January 1 of year two, that assessment had not been paid. The rate of interest on the unpaid tax assessed has accrued at the rate of 5 percent per annum (0.416 percent per month) through December 31 of year one. Commencing on January 1 of year two, the rate of interest on the unpaid tax will accrue at the rate of 7.5 percent per annum for the year (0.625 percent per month).

EXAMPLE 2: The taxpayer, Y, owes retail sales taxes assessed to it for the audit period January 1, through December 31 of year one. The assessment is made on March 1 of year two. For the tax periods in which the tax became due prior to January 1 of year two, the interest rate on such unpaid sales taxes accrued at 5 percent per annum (0.416 percent per month). Commencing on January 1 of year two, the entire unpaid portion of the tax assessed that was delinquent at that time will begin to accrue interest at the rate of 7.5 percent per annum. Those portions of the tax assessed first becoming delinquent in year two will bear interest at the rate of 7.5 percent per annum (0.625 percent per month). In the event that any portion of the tax assessed remains unpaid on January 1 of year three, the rate of interest will then accrue in year three at a rate of 10 percent per annum (0.833 percent per month).

EXAMPLE 3: The taxpayer, Z, files a refund claim for tax year zero individual income taxes in March of year two. The refund claim is allowed in May of year two and is paid. Z is entitled to receive interest at the rate of 5 percent per annum (0.416 percent per month) upon the refunded tax accruing through

December 31 of year one and is entitled to interest at the rate of 7.5 percent per annum (0.625 percent per month) upon such tax from January 1 of year two until the refund is paid.

EXAMPLE 4: A's tax year zero individual income tax liability becomes delinquent on May 1 of year one. A owes interest, commencing on May 1 of year one at the rate of 5 percent per annum (0.416 percent per month). In the event that A does not pay the liability in year one, the interest will then accrue in year two at a rate of 7.5 percent per annum (0.625 percent per month).

EXAMPLE 5: Decedent died December 31 of year zero. The inheritance tax was due 12 months after death or December 31 of year one. Prior to the due date, the estate was granted an extension of time, until September 1 of year two, to file the return and pay the tax due. The tax, however, was paid March 15 of year three. Interest accrues on the unpaid tax during the period of the extension of time (January 1 to September 1 of year two) and the remainder of year two at the rate of 7.5 percent per annum. Interest accrues on the delinquent tax from January 1 to the date of payment on March 15 of year three at the rate of 10 percent per annum.

The examples set forth in these rules are not meant to be all-inclusive. In addition, other rules set forth the precise circumstance when interest begins to accrue and whether interest accrues for each month or fraction of a month or annually as provided by law. Interest accrues as provided by law, regardless of whether the department has made a formal assessment of tax.

This rule is intended to implement Iowa Code section 421.7.

701—10.3(421,422,423,450,452A) Interest on refunds and unpaid tax.

10.3(1) *Interest on refunds.* For those taxes on which interest accrues on refunds, interest shall accrue through the month in which the refund is mailed to the taxpayer and no further interest will accrue unless the department did not use the most current address as shown on the latest return or refund claim filed with the department.

10.3(2) *Interest on unpaid tax.* Interest due cannot be waived except in accordance with the settlement authority described in Iowa Code sections 421.5 and 17A.10.

This rule is intended to implement Iowa Code sections 421.5, 421.60, 422.25(3), 422.28, 423.47, 437A.13, 450.94, 452A.65 and 533.329.

701—10.4(421) Frivolous return penalty. A \$500 civil penalty is imposed on any return of a taxpayer that is considered to be a frivolous return. A frivolous return is a return that lacks sufficient information from which the substantial correctness of the amount of tax liability can be determined or contains information that on its face indicates that the amount of tax shown is substantially incorrect and that reflects a position of law that is frivolous or is intended to delay or impede the administration of the tax laws of this state.

If the frivolous return penalty is applicable, the penalty will be imposed in addition to any other penalty that has been assessed. If the frivolous return penalty is relevant, the penalty may be imposed even under circumstances when it is determined that there is no tax liability on the return.

10.4(1) *Nonexclusive examples of circumstances under which the frivolous return penalty may be imposed.* The following are examples of returns filed in circumstances under which the frivolous return penalty may be imposed:

a. A return claiming a deduction against income or a credit against tax liability that is clearly not allowed such as a “war,” “religious,” or “conscientious objector” deduction or tax credit.

b. A blank or partially completed return that was prepared on the theory that filing a complete return and providing required financial data would violate the Fifth Amendment privilege against self-incrimination or other rights guaranteed by the Constitution.

c. An unsigned return where the taxpayer refused to sign because the signature requirement was “incomprehensible or unconstitutional” or the taxpayer was not liable for state tax since the taxpayer had not signed the return.

d. A return that contained personal and financial information on the proper lines but where the words “true, correct and complete” were crossed out above the taxpayer’s signature or where the taxpayer claimed the taxpayer’s income was not legal tender and was exempt from tax.

e. A return where the taxpayer claimed that income was not “constructively received” and the taxpayer was the nominee-agent for a trust.

f. A return with clearly inconsistent information.

g. A document filed for refund of taxes erroneously collected with the contention that the document was not a return and that no wage income was earned. This was inconsistent with attached W-2 Forms reporting wages.

h. A return that includes falsified information or supporting documentation.

10.4(2) *Nonexclusive examples where the frivolous return penalty is not applicable.* The following examples illustrate situations where the frivolous return penalty would not be applicable:

a. A return that includes a deduction, credit, or other item that may constitute a valid item of dispute between the taxpayer and the department.

b. A return that includes innocent or inadvertent mathematical or clerical errors, such as an error in addition, subtraction, multiplication, or division or the incorrect use of a table provided by the department.

c. A return that includes a statement of protest or objection, provided the return contains all required information.

d. A return that shows the correct amount of tax due, but the tax due is not paid.

This rule is intended to implement Iowa Code section 421.8.

701—10.5 Reserved.

701—10.6(421) Penalties.

10.6(1) *Penalties applicable to all taxpayers.* A penalty shall be assessed upon tax due under the circumstances described in this subrule. The rates for penalties described in this rule are uniform for all tax types. Unless otherwise specified in this subrule, see rule 701—10.7(421) for waivers that may apply to these penalties.

a. For failure to timely file a return, there is a 5 percent penalty on the unpaid tax. This penalty, once imposed, will be assessed on all subsequent amounts found by the taxpayer or the department to be due for the tax period. This penalty is in addition to any other penalty provided by law.

b. For failure to timely pay the tax due on a return, there is a 5 percent penalty on the unpaid tax. This penalty is in addition to any other penalty provided by law.

c. For a deficiency of tax due found during an audit or examination, there is a 5 percent penalty on the unpaid tax. This penalty is in lieu of the penalty for failure to timely pay but is in addition to any other penalty provided by law.

d. For willful failure to file a return with the intent to evade tax or a filing requirement, or in the case of willfully filing a false return with the intent to evade tax, there is a 75 percent penalty. This penalty is in lieu of other penalties applicable under this rule. This penalty is not subject to waiver.

e. For failure to remit at least 90 percent of the tax due by the time an extension for further time to file a return is made, there is a 10 percent penalty on the unpaid tax.

f. For failure to remit payment of taxes in the form or manner required by the rules of the director, there is a 5 percent penalty on the amount of the payment remitted in the incorrect form or manner, not to exceed \$500 per instance. This penalty shall be waived if the taxpayer was not notified of the requirement to remit tax payments electronically or if the incorrect electronic transmission of the payment was made before the taxpayer was notified of the requirement to remit tax payments electronically.

10.6(2) *Penalties applicable to specified businesses for tax years beginning on or after January 1, 2022, in which no tax is due.*

a. Definitions. For purposes of this subrule, the following definitions apply:

“*Imputed Iowa liability*” means the specified business’s Iowa net income after the application of the Iowa business activity ratio, if applicable, multiplied by the applicable tax rate for the tax year, less any Iowa tax credits available to be claimed by the specified business in the current year. For purposes of the

imputed Iowa liability calculation, “Iowa tax credits” does not include any credit for withholding or estimated tax. The applicable tax rate is:

1. In the case of an entity taxed as a C corporation, the top corporation income tax rate under Iowa Code section 422.33,
2. In the case of a financial institution as defined in Iowa Code section 422.61, the franchise tax rate under Iowa Code section 422.63, or
3. In the case of an entity taxed as an S corporation or partnership, the top individual income tax rate under Iowa Code section 422.5.

“*Income return*” includes an Iowa corporation income tax return (IA 1120), an Iowa franchise tax return (IA 1120F), an Iowa S corporation income tax return (IA 1120S), and an Iowa partnership income tax return (IA 1065).

“*Specified business*” means any of the following:

1. An entity taxed as a C corporation that is required to file an Iowa corporation income tax return (IA 1120). This includes a consolidated group of corporations electing or required to file an Iowa consolidated return under Iowa Code section 422.37.
 2. An entity taxed as an S corporation that is required to file an Iowa S corporation income tax return (IA 1120S).
 3. A financial institution that is required to file an Iowa franchise tax return (IA 1120F).
 4. An entity taxed as a partnership that is required to file an Iowa partnership income tax return (IA 1065).
- b.* For a failure by a specified business to timely file an income return when no tax is due, a penalty shall be assessed equal to the greater of \$200 or 5 percent of the imputed Iowa liability of the specified business, not to exceed \$25,000. A specified business that has Iowa tax due for a tax year (such as an S corporation subject to Iowa income tax on built-in gains or passive investment income) is not subject to this penalty for that tax year but may be subject to other penalties provided in this rule.

c. For willful failure by a specified business to file an income return with no tax shown due with the intent to evade a filing requirement, or in the case of willfully filing a false income return with no tax shown due with the intent to evade reporting of Iowa-source income, a penalty shall be assessed equal to the greater of \$1,500 or 75 percent of the imputed Iowa liability of the specified business. This penalty is not subject to waiver. A specified business that has Iowa tax due for a tax year (such as an S corporation subject to Iowa income tax on built-in gains or passive investment income) is not subject to this penalty for that tax year but may be subject to other penalties provided in this rule.

10.6(3) Examples. The following are examples to illustrate the computation of penalties imposed under this rule. For purposes of these examples, interest has been computed at the rate of 12 percent per year or 1 percent per month. The tax due amounts are assumed to be the total amounts due when considering whether the failure to pay penalty should be assessed on the basis that less than 90 percent of the tax due was paid.

Example (a) — Failure to Timely File and Failure to Timely Pay

- a. Tax due is \$100.
- b. Return filed 2 months and 10 days after the due date.
- c. \$0 paid prior to filing.

The calculation for the total amount due 3 months after the due date is shown below:

Tax	\$100
Penalty	10 (5% for failure to timely file, 5% for failure to timely pay)
Interest	3 (3 months interest)
Total amount due	\$113

Example (b) — Failure to Timely Pay

- a. Tax due is \$100.
- b. Return is timely filed.
- c. \$0 paid with the return.

The calculation for the total amount due 5 months after the due date is shown below:

Tax	\$100
Penalty	5 (5% for failure to timely pay)
Interest	5 (5 months interest)
Total amount due	\$110

Example (c) — Audit Deficiency on Timely Filed Return

- Timely filed return reported \$100 tax due.
- \$100 paid with return.
- Audit completed 8 months after the due date of the return.
- \$100 in additional tax found due during audit.

The calculation for the total amount due is shown below:

Computed tax after audit	\$200
Less tax paid with return	100
Additional tax due	\$100
Penalty	5 (5% for audit deficiency)
Interest	8 (8 months interest)
Total amount due	\$113

Example (d) — Audit Deficiency on Late Return Granted an Exception From Failure to File

- Tax due reported on return is \$100.
- Return filed 3 months and 10 days after the due date.
- \$100 paid with the return.
- Taxpayer is granted an exception from penalty for failure to timely file and failure to timely pay.
- Audit completed 8 months after the due date of the return.
- \$100 additional tax found due during audit.

The computation for the total amount due is shown below:

Tax due after audit	\$200
Less tax paid with return	100
Additional tax due	\$100
Penalty	5 (5% for audit deficiency. No penalty for failure to file.)
Interest	8 (8 months interest)
Total amount due	\$113

Example (e) — Audit Deficiency on Late Filed Return No Pay Return

- Tax due reported on the return is \$100.
- Return filed 3 months and 10 days after the due date.
- \$114 in tax, penalty, and interest paid with the return.
- Audit completed 8 months after the due date.
- \$100 additional tax found due during audit.

The computation for the total amount due is shown below:

Tax due reported on original return	\$100
Penalty	10 (5% for failure to timely file, 5% for failure to timely pay)
Interest	4 (4 months interest)
Total amount due on original return	\$114
Additional tax due after audit	\$100
Penalty	10 (5% for failure to file, 5% for audit deficiency)
Interest	8 (8 months interest)
Amount due after audit	\$118
Total amount due for tax period	\$232

Example (f) — Failure to Timely File by a Specified Business

- Tax due for tax year 2023 is \$0 because the entity is a partnership (IA 1065).
- Return is filed 7 months and 10 days after the due date.

- c. Partnership net income after calculation of the Iowa business activity ratio is \$30,000.
 - d. Net income multiplied by the top individual tax rate in 2023 of 6.5 percent is \$1,950.
 - e. Iowa tax credits available are \$1,000.
 - f. Imputed Iowa liability is \$950.
 - g. The penalty is the greater of 5 percent of the imputed Iowa liability (\$48) or \$200.
- The calculation for the total amount due is shown below:

Tax	\$0
Penalty	200
Interest	<u>0</u>
Total amount due	\$200

This rule is intended to implement Iowa Code section 421.27.

701—10.7(421) Waiver of penalty. Under certain circumstances, the penalty for failure to timely file a return, failure to timely pay the tax due with the filing of a return, or failure to pay following an audit by the department may be waived. The taxpayer has the burden to prove the necessary conditions to waive a penalty.

10.7(1) Definitions. For purposes of this rule, the following definitions apply:

“Act of God” means an unusual and extraordinary manifestation of nature that could not reasonably be anticipated or foreseen and cannot be prevented by human care, skill, or foresight.

“Immediate family” includes the spouse, children, or parents of the taxpayer. There is a rebuttable presumption that relatives of the taxpayer beyond the relation of spouse, children, or parents of the taxpayer are not within the taxpayer’s immediate family for purposes of the waiver exceptions.

“Sanctioned self-audit program” means an audit performed by the taxpayer with forms provided by the department as a result of contact by the department to the taxpayer prior to voluntary filing or payment of the tax. Filing voluntarily without contact by the department does not constitute a sanctioned self-audit.

“Substantial authority” means the weight of authorities for the tax treatment of an item is substantial in relation to the weight of authorities supporting contrary positions.

In determining whether there is substantial authority, only the following will be considered authority: applicable provisions of Iowa statutes, provisions of the Internal Revenue Code and United States Treasury regulations that were applicable for the tax period(s) in question, Iowa administrative rules construing those statutes, court cases, administrative rulings, legal periodicals, department guidance and tax return instructions current for the applicable tax period(s), tax treaties and regulations, and legislative intent as reflected in committee reports.

Conclusions reached in treatises, legal opinions rendered by other tax professionals, descriptions of statutes prepared by legislative staff, legal counsel memoranda, and proposed rules and regulations are not substantial authority.

There is substantial authority for the tax treatment of an item if there was current substantial authority at the time the return containing the item is due to be filed or there was current substantial authority on the last day of the taxable year to which the return relates.

The taxpayer must notify the department at the time the return or payment is originally due of the substantial authority the taxpayer is relying upon for not filing the return or paying the tax due.

10.7(2) Documentation. Unless otherwise indicated, written documentation is required to support the waiver of a penalty.

10.7(3) For failure to timely file a return or failure to timely pay tax due, the 5 percent penalties shall be waived upon a showing of the following exceptions:

- a. An amount of tax greater than \$0 is due and at least 90 percent of the tax required to be shown due has been paid by the due date of the tax return. This exception does not apply to the penalty for failure to timely file by a specified business under subrule 10.6(2).

- b. A taxpayer required to file a monthly or quarterly return is allowed one late return or one late payment within a three-year period.

(1) The use by the taxpayer of any other penalty exception under this subrule will not count as a late return or payment for purposes of this subrule.

(2) If the taxpayer receives this waiver, the taxpayer must make timely filings and payments for three years prior to being eligible for another waiver under this paragraph.

(3) This exception does not apply to an income return, a franchise return, or a moneys and credits return.

(4) This exception is determined on the basis of the tax period for which the return or payment is due and not the date on which the return is filed or payment is made.

EXAMPLE: Taxpayer A, a retail business with multiple employees, has not been late in filing returns or making payments for five years. Taxpayer A files its withholding return for the fourth quarter of 2020, due January 20, 2021, on the due date but does not make the payment until the next day. Taxpayer A incurs the penalty for failing to timely pay, but the penalty will be waived under this exception. Taxpayer A is not eligible for a waiver for a late return filing or late payment again until the due date for the fourth quarter of 2023.

c. Death of a taxpayer, a member of the immediate family of the taxpayer, or the person directly responsible for filing the return and paying the tax, when the death interferes with timely filing of a return or timely payment of tax. There is a rebuttable presumption that a death that occurs more than 30 days before the date the return or payment is due does not interfere with timely filing or payment. The taxpayer, or taxpayer's legal representative, has the burden of supplying proof of when the death occurred. A taxpayer who is eligible for this waiver will be allowed 30 days from the date the return or payment is originally due to file the return or make the associated payment without incurring penalty.

d. The onset of serious, long-term illness or hospitalization of the taxpayer, a member of the taxpayer's immediate family, or the person directly responsible for filing the return and paying the tax when such illness or hospitalization interferes with the timely filing of a return or timely payment of tax.

(1) There is a rebuttable presumption that the onset of an illness or hospitalization that precedes the due date of the return or payment by more than 30 days does not interfere with the timely filing or timely payment of tax.

(2) The taxpayer will be allowed at least 30 days from the date the return or payment form is due or until the illness or hospitalization no longer reasonably interferes with the taxpayer's ability to file the return without incurring a penalty.

(3) The taxpayer has the burden of proof on whether or not a serious, long-term illness or hospitalization has occurred, when it occurred, and how the illness or hospitalization interfered with the taxpayer's ability to timely file a return or timely pay.

e. Destruction of records by fire, flood, or act of God when the destruction interferes with the timely filing of a return or timely payment of tax. There is a rebuttable presumption that an "act of God" that precedes the due date of the return or payment by 30 days or more did not interfere with the timely filing or payment.

f. The taxpayer presents proof that the taxpayer at the due date of the return or payment relied upon applicable, documented, written advice made specifically to the taxpayer; to the taxpayer's preparer; or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or Internal Revenue Service. The advice must be relevant to the agency offering the advice and not beyond the scope of the agency's area of expertise and knowledge. The reliance must be the direct cause of the failure to file or failure to pay. The advice must be current and not superseded by a court decision; ruling of a quasi-judicial body such as an administrative law judge or the director; or by the adoption, amendment, or repeal of a rule or law.

g. Reliance upon the results of a previous audit was a direct cause for failure to file or pay where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision or by adoption, amendment, or repeal of a rule or law.

h. The taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return. Mathematical, computation, or transposition errors are not considered as facts and circumstances disclosed on a return. These types of errors will not be considered as penalty exceptions.

i. The return or payment is timely, but erroneously, mailed with adequate postage to the Internal Revenue Service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage. The taxpayer must provide competent evidence of the mailing as stated in Iowa Code section 622.105.

j. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

k. The failure to file was discovered through a sanctioned self-audit program conducted by the department.

l. The availability of funds in payment of tax required to be made through electronic funds transfer is delayed and the delay of availability is due to reasons beyond the control of the taxpayer.

m. For estates with disclaimers, a penalty will not be imposed for failure to pay or a late-filed Iowa inheritance tax return if the sole reason for the failure to pay or late-filed inheritance tax return is due to a beneficiary's decision to disclaim property or disclaim an interest in property from the estate. However, for the penalty to be waived, the Iowa inheritance tax return must be filed and all tax must be paid to the department within the later of nine months from the date of death or 60 days from the delivery or filing date of the disclaimer pursuant to Iowa Code section 633E.12.

10.7(4) In addition to any applicable waivers for failure to timely pay the tax due on a return in subrule 10.7(3), the 5 percent penalty for failure to timely pay the tax due shall be waived upon a showing of any of the following exceptions:

a. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department. This exception does not apply to a sanctioned self-audit program conducted by the department or to adjustments from a state partnership audit as described in Iowa Code section 422.25C(2).

b. Changes to Iowa tax liability.

(1) For changes to Iowa tax liability resulting from a federal partnership level audit, the partnership or a direct or indirect partner voluntarily and timely complies with its reporting and payment requirements following the final determination date of the audit. Requirements for reporting federal partnership level audit adjustment to Iowa can be found in Iowa Code section 422.25A.

(2) For changes to Iowa tax liability resulting from an audit or examination by the Internal Revenue Service other than a federal partnership level audit, the taxpayer voluntarily files a complete federal adjustments report and pays any additional Iowa tax due within 180 days of the final determination date of the federal audit or examination. For purposes of this paragraph, "federal adjustments report" means a filing that includes an amended Iowa return with any required supporting schedules, a copy of the federal audit report or other federal documents that show the final determination and explains all the final federal adjustments, and a copy of the amended federal return if one was filed.

(3) This exception does not apply to adjustments from a state partnership audit as described in Iowa Code section 422.25C(2).

10.7(5) For a deficiency of tax due on a return found during an audit or examination, the 5 percent penalty is waived under the following exceptions:

a. At least 90 percent of the tax due has been paid by the due date.

b. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice as described in paragraph 10.7(3) "f."

c. Reliance upon results in a previous audit was a direct cause for failure to file or pay as described in paragraph 10.7(3) "g."

d. The taxpayer presents documented proof of substantial authority as described in paragraph 10.7(3) "h."

This rule is intended to implement Iowa Code section 421.27.

701—10.8(421) Tax return extension in disaster areas. If a natural disaster is declared by the governor in any area of the state, the director may extend for a period of up to one year the due date for the filing of any tax return and may suspend any associated penalty or interest that would accrue during that period of time for any affected taxpayer whose principal residence or business is located in the covered area, if

the director determines it necessary for the efficient administration of the tax laws of this state. The director will notify the public of any possible extensions of tax filings as well as possible suspensions of penalty and interest. Notification will be made through different means available to the director including but not limited to press releases, media information, and the department's website. Persons eligible for extension shall complete any application or form if required by the department and satisfy any requirements or conditions for the extension.

This rule is intended to implement Iowa Code section 421.17(30).

701—10.9(421) Failure to file penalty. A penalty may be assessed for failure to file a return if a taxpayer is subject to a return filing requirement. This penalty may be assessed on any person required to file a return for any tax type administered by the department. This penalty shall be assessed 90 days after the department has issued a demand letter if a return has not been filed. This penalty will be equal to \$1,000 for each failure to file. This penalty is in addition to any other penalty provided by law.

10.9(1) Demand letter.

a. The department may send a demand letter to a taxpayer at any time after the taxpayer has failed to file a return, as defined in Iowa Code section 421.6, by the due date. Once this letter has been issued, the taxpayer has 90 days from the date on the letter to file all returns referenced in the letter or show proof that all returns referenced in the letter have already been filed before a penalty will be assessed.

b. The letter shall contain the following title and heading:

FAILURE TO FILE DEMAND LETTER

The Iowa Department of Revenue has determined you have not filed one or more required returns. Under Iowa Code section 421.27(8), failure to file your return(s) as described in this letter within 90 days of the date of this letter will result in a \$1,000 penalty for each return that is not filed. Penalties under Iowa

Code section 421.27(8) are in addition to other penalties under Iowa law.

c. The letter shall also contain the following:

- (1) Date of demand letter.
- (2) Tax period(s) involved.
- (3) Return(s) to be filed.
- (4) Date by which the return(s) must be filed to avoid incurring a penalty under Iowa Code section 421.27(8).
- (5) Total penalty under Iowa Code section 421.27(8) that will be assessed if the return(s) are not filed within 90 days.

10.9(2) Waiver of penalty.

a. *Documentation.* Unless otherwise indicated, written documentation from the taxpayer is required to support the waiver of this penalty.

b. *Good reason.* This penalty can be waived if the taxpayer proves by a preponderance of the evidence that the taxpayer did not file a return within 90 days of the date of the demand letter due to a "good reason" as defined in this rule. "Good reason" can only be shown by proving one of the following circumstances:

(1) Destruction of records by fire, flood, or act of God when the destruction interferes with the filing of a return within 90 days of the date of demand letter. "Act of God" means the same as defined in subrule 10.7(1).

(2) The onset of serious, long-term illness or hospitalization of the taxpayer, a member of the taxpayer's immediate family, or the person directly responsible for filing the return when such illness or hospitalization interferes with the filing of a return within 90 days of the date of the demand letter.

(3) The return is filed but erroneously mailed with adequate postage to the Internal Revenue Service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage. The taxpayer must provide competent evidence of the mailing as stated in Iowa Code section 622.105.

(4) A timely appeal of a department action, other than the demand letter, contesting the filing requirement of the return(s) stated in the demand letter was filed before the date stated in the letter pursuant to subparagraph 10.9(1)"c"(4).

(5) Other good reason within the discretion of the department, if the taxpayer has mutually agreed, in writing, with the department to file the required return(s) within a reasonable period of time beyond the date stated in the letter pursuant to subparagraph 10.9(1) “c”(4).

c. Subsequent issuance. The department may issue a new demand letter for the same filing obligation if the taxpayer continues to fail to file after the waiver is granted.

EXAMPLE 1: X fails to file a return. The department sends X a failure to file demand letter pursuant to subrule 10.9(1). X fails to file the return within 90 days of the date of the demand letter. X is assessed a \$1,000 penalty. X is still required to file the return.

EXAMPLE 2: Y fails to file a return. The department sends Y a failure to file demand letter under subrule 10.9(1). Y fails to file the return within 90 days of the date of the demand letter. Y is assessed a \$1,000 penalty. Y demonstrates to the department that Y was in the hospital and that the hospitalization interfered with Y’s filing of the return within 90 days of the demand letter. The department waives the \$1,000 penalty. Y is still required to file the return.

EXAMPLE 3: Same facts as Example 2. After receiving the good reason waiver, Y does not file the return. The department issues a new failure to file demand letter under subrule 10.9(1) for the same return that the department sought to be filed in Example 2. Y fails to file the return within 90 days of the date of the second demand letter. Y is assessed a \$1,000 penalty. Y is no longer hospitalized and has no other good reason pursuant to paragraph 10.9(2) “b.” The \$1,000 penalty is not waived. A good reason waiver for the first demand letter does not permanently relieve Y from filing the return. Granting the waiver for a good reason for the first demand letter does not prevent the department from issuing a new demand letter for the same filing obligation.

10.9(3) Rescission. The department may rescind the demand letter in writing any time before the penalty is assessed under Iowa Code section 421.27(8) if the taxpayer demonstrates to the department’s satisfaction that the taxpayer has no Iowa return filing requirement or that the filing requirement has been met. The taxpayer has the burden to prove by a preponderance of the evidence that no filing obligation exists. The department may also rescind the demand letter if the taxpayer proves a good reason exists as described in paragraph 10.9(2) “b” that prevents the taxpayer from filing the return and the taxpayer has mutually agreed, in writing, with the department to file the required return within a reasonable period of time. The department may issue a new demand letter for the same filing obligation if the taxpayer continues to fail to file after the reasonable period of time mutually agreed to by the taxpayer and the department due to proof of a good reason has expired or if, after the department previously determined the taxpayer had no filing requirement, the department obtains additional information that shows the taxpayer does have a filing requirement.

EXAMPLE 4: Z fails to file a return and receives a demand letter. Z presents proof to the department that Z has no filing requirement. In response to this information, the department rescinds the demand letter. Z does not need to file the return within 90 days, and the department does not impose a \$1,000 penalty on Z.

EXAMPLE 5: Same facts as Example 4. After the department rescinds the demand letter, the department receives new information showing Z is required to file a return. The department can send Z a new demand letter for the same return.

This rule is intended to implement Iowa Code section 421.27.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8947C

REVENUE DEPARTMENT[701]**Adopted and Filed****Rulemaking related to tax administration and
filing returns and payment of tax**

The Revenue Department hereby rescinds Chapter 11, “Administration,” adopts a new Chapter 11, “Tax Administration,” and amends Chapter 202, “Filing Returns and Payment of Tax,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 421.17, 421.60, 422.25, 422.30, 423.37, 423.41, 452A.43, 452A.62, 452A.76, 453A.30 and 453B.9.

Purpose and Summary

The purpose of this rulemaking is to rescind and adopt new Chapter 11. This chapter provides guidance on the Department’s administration of Iowa taxes, including Iowa sales and use tax, new registration fee, equipment tax, cigarette and tobacco taxes, and fuel taxes. The Department removes portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language pursuant to Executive Order 10. Existing rules 701—11.9(422,423) and 701—11.10(423) were moved to Chapter 202, where they are better suited. Additionally, rules on jeopardy assessments and the order of application of payments are moved to this chapter under rules 701—11.7(422,453B) and 701—11.8(421,422) and removed from 701—Chapter 10 in a separate rulemaking.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8340C**. Two public hearings were held on the following date(s):

- December 4, 2024

Public comment was received. The Iowa Taxpayers Association provided comments both orally at the public hearing and via written comment through Iowa Taxpayers Association President and CEO Nate Ristow. These comments and the Department’s responses are summarized as follows:

1. A suggestion was made to define or remove the phrase “clear need” in paragraph 11.5(2)“b.” The Department agreed and modified the rule language to indicate the Department may grant a request to change the location of an office interview.

2. It was questioned whether providing advance notice for interview recordings was consistent with Iowa law as proposed under subrule 11.5(4). The Department identified that Iowa Code section 421.60(2)“i” requires that the Director adopt rules for setting times and places for taxpayer interviews and to permit any taxpayer to record the interviews. The proposed rules in the Notice contemplated that a taxpayer will make a timely request and receive approval from the Department before recording an interview. The Department removed references to this request and approval process, but the adopted rules retain the prior notification requirement. The Department believes it is important that each party receive notification of the others’ intent to record an interview. This information clearly impacts how the Department employee conducts the interview, and it may have other impacts, including but not limited to where the interview occurs, who is present at the interview, and whether the taxpayer decides to incur the

cost of making the taxpayer's own recording. The Department made revisions to the rule based on the commenter's feedback.

3. The commenter made suggested changes to subrules 11.6(2) and 11.6(4) to require the Department to state the specific basis for the adjustment or denial on notices of assessments and refund claims. In considering these comments, the Department determined the proposed rule is consistent with Iowa Code section 421.60(2)“b,” which defines the type of explanation the Department must provide on a notice of assessment or refund denial. The Department does not believe it is appropriate to alter these statutory parameters by rulemaking.

4. It was noted that while few substantive changes were made, subrule 11.6(3) provides no limit to the number of times the Department can reassess the same tax period. The commenter questioned what authority the Department has to continue making adjustments on issues not raised in the initial audit or in the taxpayer's appeal. The Department responded that Iowa Code section 421.17(35) gives the Director and the Department the power and duty to audit and examine all taxes collected or administered by the Department. The comment did not appear to be directly related to the contents of this rulemaking, but the Department will consider the feedback regardless.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 30, 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, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11 TAX ADMINISTRATION

701—11.1(421) Definitions. For purposes of this chapter:

“*Department*” means the Iowa department of revenue.

“*Director*” means the director of revenue or the director's designee.

“*Taxpayer*” includes any person subject to the provisions of a tax or charge administered by the department whether acting on the person's own behalf or as an agent or fiduciary.

This rule is intended to implement Iowa Code chapter 421.

701—11.2(421) Scope.

11.2(1) Except as otherwise provided in this chapter, this chapter provides certain rules related to the department's administration of the following taxes:

- a. Sales and use taxes and local option taxes under Iowa Code chapters 423 and 423B.
- b. Fee for new registration under Iowa Code section 321.105A.
- c. Hotel and motel tax under Iowa Code chapter 423A.
- d. Automobile rental excise tax under Iowa Code chapter 423C.
- e. Equipment tax under Iowa Code chapter 423D.
- f. Water service excise tax under Iowa Code chapter 423G.
- g. Motor fuel, special fuel, and electric fuel taxes under Iowa Code chapter 452A.
- h. Cigarette and tobacco taxes under Iowa Code chapter 453A.

11.2(2) The tax administration rules described in this chapter are not intended to be comprehensive. The administrative code chapters for each relevant tax may contain additional tax administration rules.

This rule is intended to implement Iowa Code chapter 421.

701—11.3(321,421,423,452A,453A) Taxpayer records.

11.3(1) *Records required.* Every taxpayer shall keep and preserve records. The records must include the normal books of account ordinarily maintained by a person engaged in the activity in question including but not limited to all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns or reports. The records must be made available for examination upon request by the director.

11.3(2) *Automatic data processing records.* Automatic data processing (ADP) is defined in this rule as including electronic data processing (EDP).

a. An ADP tax accounting system must have built into its program a method of producing visible and legible records that will provide the necessary information for verification of the taxpayer's tax liability.

b. ADP records must provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time they are processed, then the system must have the ability to reconstruct these transactions.

c. A general ledger with source references will be produced to coincide with financial reports of tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers should also be produced periodically.

d. Supporting documents and audit trail. The audit trail should be designed so that the details underlying the summary accounting data may be identified and made available to the director upon request. The system should be designed so that the supporting documents are readily available. An audit trail is defined as the condition of having sufficient documentary evidence to trace an item from a source to a financial statement or tax return or report; or the reverse; that is, to have an auditable system.

e. Program documentation. A description of the ADP portion of the accounting program should be available. The statements and illustrations as to the scope of operations should be sufficiently detailed to indicate:

- (1) The application being performed.
 - (2) The procedure employed in each application, which, for example, might be supported by flow charts, block diagrams or other satisfactory description of the input or output procedures.
 - (3) The controls used to ensure accurate and reliable processing. Program and system changes, together with their effective dates, should be noted in order to preserve an accurate chronological record.
- f. Storage of ADP output will be in appropriate facilities to ensure preservation and readability of output.

11.3(3) *Electronic data interchange or EDI technology.*

a. Definitions. The following definitions are applicable to this subrule:

“Database management system” means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

“Electronic data interchange” or *“EDI technology”* means the computer-to-computer exchange of business transactions in a standardized, structured electronic format.

“Hard copy” means any documents, records, reports, or other data printed on paper.

“Machine-sensible record” means a collection of related information in an electronic format. Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems.

“Storage-only imaging system” means a system of computer hardware and software that provides for the storage, retention, and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image.

b. This subrule prescribes requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under Iowa law. It is also the purpose of this subrule to address these requirements where all or part of the taxpayer’s records are received, created, maintained, or generated through various computer, electronic, and imaging processes and systems. A taxpayer must maintain all records that are necessary for determination of the correct tax liability as set forth in this subrule. All required records must be made available on request by the department. If a taxpayer retains records required to be retained under this subrule in both machine-sensible and hard-copy formats, the taxpayer must make the records available to the department in machine-sensible format upon request of the department. Nothing in this subrule will be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hard-copy documents or reproductions thereof, in whole or in part, whether or not the taxpayer also has retained or has the capability to retain records on electronic or other storage media in accordance with this subrule. However, this will not relieve a taxpayer of the obligation to comply with the requirement to make records available to the department.

c. Recordkeeping requirements—machine-sensible records. A taxpayer that maintains and retains books, records, and other sources of information in the form of machine-sensible records must comply with the following:

(1) General requirements. A taxpayer must comply with the following general requirements regarding the retention of machine-sensible records:

1. Machine-sensible records used to establish tax compliance must contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the department upon request. A taxpayer has discretion to discard duplicate records and redundant information provided its responsibilities under this rule are met.

2. At the time of an examination, the retained records must be capable of being retrieved and converted to a standard record format. The term “standard record format” does not mean that every taxpayer must keep records in an identical manner. Instead, it requires that if a taxpayer utilizes a code system to identify elements of information in each record when creating and maintaining records, the taxpayer is required to maintain a record of the meaning of each code and any code changes so the department may effectively review the taxpayer’s records.

3. Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer that does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct a traditional paper document for tax purposes.

(2) Electronic data interchange requirements. A taxpayer must comply with the following requirements for records received through electronic data interchange:

1. Where a taxpayer uses an electronic data interchange process and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain the following minimal information: vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, and shipping details. Codes may be used to identify some or all of the data

elements, provided that the taxpayer provides a method which allows the department to interpret the coded information.

2. The taxpayer may capture the information necessary to satisfy the requirements set forth in the preceding paragraph at any level within the accounting system and need not retain the original EDI transaction records provided that the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains the other records such as its vendor master file and product code description lists and makes them available to the department. In this example, the taxpayer need not retain its original EDI transaction for tax purposes.

(3) Electronic data processing systems requirements. The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this rule. In addition, pursuant to Iowa law, the department must have access to the taxpayer's EDI processing, accounting, or other systems for the purposes of verifying or evaluating the integrity and reliability of those systems to provide accurate and complete records.

(4) Business process information. To verify the accuracy of the records being retained, the taxpayer must comply with the following:

1. Upon the request of the department, the taxpayer shall provide a description of the business process that created the retained records. The description must include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

2. The taxpayer must be capable of demonstrating the following:

- The functions being performed as they relate to the flow of data through the system;
- The internal controls used to ensure accurate and reliable processing; and
- The internal controls used to prevent unauthorized addition to, alteration of, or deletion of retained records.

3. The following specific documentation is required for machine-sensible records retained pursuant to this rule:

- Record formats or layouts;
- Field definitions (including a record of any changes in the system or codes with the meaning of all codes used to represent information);
- File descriptions (e.g., data set name); and
- Detailed charts of accounts and account descriptions.

d. Record maintenance requirements. The department recommends but does not require that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records such as the labeling of records, the location and security of the storage environment, the creation of backup copies, and the use of periodic testing to confirm the continued integrity of the records. The NARA standards may be found at 36 Code of Federal Regulations, Part 1234, November 2, 2009, Edition. The taxpayer's computer hardware and software must accommodate the extraction and conversion of retained machine-sensible records.

e. Access to machine-sensible records. If a taxpayer retains records required to be retained under this rule in both machine-sensible and hard-copy formats, the taxpayer must make the records available to the department in machine-sensible format upon the request of the department.

(1) The manner in which the department is provided access to machine-sensible records may be satisfied through a variety of means that must take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(2) Access will be provided in one or more of the following manners:

1. The taxpayer may arrange to provide the department with the hardware, software, and personnel resources to access the machine-sensible records.

2. The taxpayer may arrange for a third party to provide the hardware, software, and personnel resources necessary to access the machine-sensible records.

3. The taxpayer may convert the machine-sensible records to a standard record format specified by the department, including copies of files, on a magnetic medium that is agreed to by the department.

4. The taxpayer and the department may agree on other means of providing access to the machine-sensible records.

f. Taxpayer's responsibility and discretionary authority. In conjunction with meeting the requirements of paragraph 11.3(3) "c," a taxpayer may create files solely for the use of the department. For example, if a database management system is used, it is consistent with this subrule for the taxpayer to create and retain a file that contains the transaction-level detail from the database management system and that meets the requirements of paragraph 11.3(3) "c." The taxpayer should document the process that created the separate file to show the relationship between that file and the original records. A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract will not relieve the taxpayer of its responsibilities under this rule.

g. Alternative storage media. For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this rule to microfilm, microfiche, or other storage-only imaging systems and may discard the original hard-copy documents, provided the rules governing alternative storage media are met.

h. Microfilm, microfiche, and other storage-only imaging systems. These shall meet the following requirements:

(1) Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche, or other storage-only imaging system must be maintained and made available upon request. Such documentation shall, at a minimum, contain sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(2) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for the period they are required to be retained.

(3) Upon request by the department, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche, or other storage-only imaging system.

(4) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(5) All data stored on microfilm, microfiche, or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.

(6) There is no substantial evidence that the microfilm, microfiche, or other storage-only imaging system lacks authenticity or integrity.

i. Effect on hard-copy recordkeeping requirements. Except as otherwise provided, the provisions of this subrule do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and rules. Hard-copy records may be retained on alternative storage media as indicated in this subrule.

(1) If hard-copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), hard-copy records need not be created.

(2) Hard-copy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this rule.

(3) Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

(4) Nothing in this rule will prevent the department from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination.

11.3(4) *Preservation of records.*

a. The records required in this rule shall be preserved, at a minimum, for the length of time that the records may be relevant to the department's determination of tax liability for any tax year, and shall be open for examination by the department during this period of time.

b. If a tax liability has been assessed and an appeal is pending to the department, district court, or an appellate court, the records described in this rule which relate to the period covered by the assessment shall be preserved until the final disposition of the appeal.

c. If the requirements of this rule are not met, the records will be considered inadequate.

This rule is intended to implement Iowa Code sections 321.105A, 421.17, 423.41, 452A.10, 453A.15, 453A.18, 453A.19, and 453A.24.

701—11.4(421,423,452A,453A) Audit of records.

11.4(1) *In general.* The department has the right and duty to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a return or report filed or determining the tax liability of any taxpayer. The right to examine records includes but is not limited to the right to examine copies of the taxpayer's state and federal income tax returns.

11.4(2) *Delegation of authority.* Pursuant to statutory authority, the director delegates to department staff the power to examine reports, returns, and records; make audits; determine the correct amount of tax, penalty, interest, and fines due; and take all actions authorized to collect the same, subject to review by or appeal to the director.

11.4(3) *Audit costs.*

a. In the case of fuel taxes under Iowa Code chapter 452A, 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. Costs will include meals, lodging, and travel expenses but will not include salaries of department personnel.

b. In the case of cigarette and tobacco taxes under Iowa Code chapter 453A, when it is determined upon audit that any person dealing in cigarettes owes additional tax, the costs of the audit are assessed against such person as additional penalty.

This rule is intended to implement Iowa Code sections 421.17, 423.37, 452A.43, 452A.62, 452A.76, and 453A.30.

701—11.5(421) Time and place of taxpayer interviews. This rule governs taxpayer interviews related to all taxes and charges administered by the department. If a taxpayer is selected for an interview, the time and place of the interview is to be fixed by an employee of the department and employees of the department are to endeavor to schedule a time and place that is reasonable under the circumstances.

11.5(1) *Time of taxpayer interviews.* The department will schedule the day(s) for a taxpayer interview during a normally scheduled workday(s) of the department during the department's normal business hours. The department will schedule taxpayer interviews throughout the year without regard to seasonal fluctuations in the business of particular taxpayers or their representatives. The department will, however, work with taxpayers or their representatives to try to minimize any adverse effects in scheduling the date and time of a taxpayer interview.

11.5(2) *Type of taxpayer interview.*

a. The department will determine whether a taxpayer interview will be an office interview (i.e., an interview conducted at a department office) or a field interview (i.e., an interview conducted at the taxpayer's place of business or residence, or some other location that is not a department office) based on which form of interview will be more conducive to effective and efficient tax administration.

b. The department may grant a request to hold an office interview at another location.

11.5(3) *Place of taxpayer interview.* The department will make an initial determination of the place for an interview based on the address shown on the return for the tax period to be examined. Requests by taxpayers to transfer the place of interview will be resolved on a case-by-case basis using the criteria set forth in paragraph 11.5(3)“c.”

a. Office taxpayer interviews. An office interview of an individual or sole proprietorship generally is based on the residence of the individual taxpayer. An office interview of a taxpayer that is a business or other legal entity generally is based on the location where the taxpayer’s original books, records, and source documents are maintained.

b. Field taxpayer interviews. A field interview generally will take place at the location in this state where the taxpayer’s original books, records, and source documents pertinent to the interview are maintained. In the case of a business, this usually will be the taxpayer’s principal place of business.

c. Requests by taxpayers to change place of interview. The department will consider, on a case-by-case basis, written requests by taxpayers or their representatives to change the place that the department has set for an interview. In considering these requests, the department will take into account the following factors:

- (1) The location of the taxpayer’s current residence;
- (2) The location of the taxpayer’s current principal place of business;
- (3) The location where the taxpayer’s books, records, and source documents are maintained;
- (4) The location at which the department can perform the interview most efficiently;
- (5) The department resources available at the location to which the taxpayer has requested a transfer; and
- (6) Other factors that indicate that conducting the interview at a particular location could pose undue inconvenience to the taxpayer.

d. Granting of requests to change place of interview. A request by a taxpayer to transfer the place of interview generally will be granted under the following circumstances:

(1) In the case of a taxpayer that is a small business, if an interview is scheduled at the taxpayer’s place of business and the taxpayer can demonstrate in writing that conducting the interview at the place of business would essentially require the business to close or would unduly disrupt business operations, the department will change the place of interview.

(2) If a taxpayer does not reside at the residence where an interview has been scheduled, the department will agree to transfer the examination to the taxpayer’s current residence.

(3) If the taxpayer’s books, records, and source documents are maintained at a location in this state other than the location where the interview has been scheduled, the department will agree to transfer the interview to the location where the taxpayer’s books, records, and source documents are maintained.

e. Other factors that affect the location of an interview include:

(1) The location of the place of business of a taxpayer’s representative generally will not be considered in determining the place for an interview. However, the department in its sole discretion may determine, based on the factors described in paragraph 11.5(3)“c,” to transfer the place of interview to the representative’s office.

(2) If any applicable period of limitations of assessment and collection provided in the Iowa Code will expire within 13 months from the date of a taxpayer’s request to transfer the place of interview, the department may require, as a condition to the transfer, that the taxpayer agree in writing to extend the limitations period up to one year.

(3) The department is not required to transfer an interview to an office that does not have adequate resources to conduct the interview.

(4) Notwithstanding any other provision of this rule, employees of the department may decline to conduct an interview at a particular location if it appears that the possibility of physical danger may exist at that location. In these circumstances, the department may transfer an interview to a department office and take any other steps reasonably necessary to protect its employees.

(5) Nothing in this rule shall be interpreted as precluding the department from initiating the transfer of an interview if the transfer would promote the effective and efficient conduct of the interview. Should

a taxpayer request that such a transfer not be made, the department will consider the request according to the principles and criteria set forth in paragraph 11.5(3) "c."

(6) Regardless of where an interview takes place, the department may visit the taxpayer's place of business or residence to establish facts that can only be established by direct visit, such as inventory or asset verification. The department generally will visit for these purposes on a normal workday of the department during the department's normal business hours.

11.5(4) *Audio recordings of taxpayer interviews.*

a. The department and a taxpayer are permitted to make an audio recording of any interview of the taxpayer by the department relating to the determination or collection of any tax. A recording of the interview by a taxpayer is at the taxpayer's own expense and must be with the taxpayer's own equipment.

b. Notification of intent to make audio recordings must be addressed by the taxpayer to the department employee who is conducting the interview, or by the department to the taxpayer, and must be received before the day of the interview. If adequate advance notice is not given, the party who failed to receive timely notification may, in their discretion, proceed with the interview or schedule a new date for the interview.

c. If the interview is recorded by the department, the taxpayer or their representative may, upon request, receive a transcript or copy of the recording. Such requests must be addressed to the employee conducting the interview and must be received by the department no later than 30 calendar days after the date of the recording. The taxpayer must pay the costs of duplication or transcription.

d. At the beginning of the recording of an interview, the department employee conducting the interview must state the employee's name, the date, the time, the place, and the purpose of the interview. At the end of the interview, the department employee will state that the interview has been completed and that the recording has ended.

e. When written records are presented or discussed during the interview being recorded, they must be described in sufficient detail to make the audio recording a meaningful record when matched with the other documentation contained in the case file.

This rule is intended to implement Iowa Code section 421.60.

701—11.6(421) Adjustments.

11.6(1) *Notice of proposed adjustments.*

a. An employee of the department designated by the director to examine returns and make audits who discovers discrepancies or omissions in returns or who discovers that no return was filed when one was due is authorized to notify the person of this discovery by mail or electronically in accordance with rule 701—8.6(421). This notice is not an assessment. It informs the person of the amount that would be due if the proposed adjustments are finalized.

b. Right of person upon receipt of notice of adjustment. A person who has received notice of a proposed adjustment in connection with a return may do either of the following:

(1) Pay the additional amount stated to be due, if any. If payment is made and the person wishes to contest the matter, the person should then file a claim for refund. Payment is not required until an assessment is made, although interest will continue to accrue if payment is not made.

(2) If no payment is made, the person may discuss with the employee who notified the person of the proposed adjustments all matters of fact and law that may be relevant to the situation. This person may also ask for a conference with the Alcohol and Tax Compliance Division. Documents and records supporting the person's position may be required.

c. If after following the procedures outlined in this subrule, no agreement is reached and the person does not pay the amount determined to be correct, if any, or if the department in its discretion does not send notice of the proposed adjustments, the department will send a notice of assessment or a denial of a refund claim which initiates the appeal period.

11.6(2) *Notice of assessment.*

a. A notice of assessment will be issued in accordance with the Iowa Code, within the time period prescribed by the Iowa Code, and will be sent by mail or electronically in accordance with rule 701—8.6(421).

b. If the notice of assessment is timely appealed in accordance with 701—Chapter 7, proceedings to collect the tax will not be commenced until the appeal is ultimately determined unless the department has reason to believe that a delay caused by the appeal proceedings will result in an irrevocable loss of tax ultimately found to be due and owing the state of Iowa.

11.6(3) *Supplemental assessments.* The department may, at any time within the applicable statute of limitations period for examining a tax return, issue a supplemental assessment whenever it is ascertained that any prior assessment or refund adjustment was inaccurate. The department may also, at any time within the applicable statute of limitations period for examining a tax return, issue an assessment whenever it is ascertained that any prior refund was issued in error.

11.6(4) *Denial of a refund claim.* A denial of a refund claim will be issued in accordance with the Iowa Code. The department may issue a denial of a refund claim in whole or in part at any time if the department determines a claim for refund is untimely or without merit.

11.6(5) *Effect of resolved assessments or refund adjustments.* If an assessment or refund adjustment is appealed in accordance with 701—Chapter 7 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 the 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 421.60.

701—11.7(422,453B) Jeopardy assessments.

11.7(1) *Generally.* This rule governs jeopardy assessments for all taxes and charges administered by the department. A jeopardy assessment may be made where the director believes for any reason that assessment or collection of the tax will be jeopardized by delay. In addition, all assessments made pursuant to Iowa Code chapter 453B are jeopardy assessments. The department is authorized to estimate the applicable tax base and the tax upon available information, add penalty and interest, and demand immediate payment. Proceedings to enforce the payment of the assessment by seizure or sale of any property of the taxpayer may be instituted immediately.

11.7(2) *Request for bond.*

a. In the event a taxpayer seeks to post a bond in lieu of summary collection of a jeopardy assessment, pending final determination of the amount of tax legally due, the taxpayer must file a Jeopardy Assessment Bond Request Form, available on the department's website, with the clerk of the appeals section for the department. The department will accept or reject the bond request, in writing, within ten days. If the department does not respond within ten days, the bond request is deemed rejected. The department is not required to accept bond requests. If the department accepts the bond request, the clerk of the appeals section for the department shall be notified. The approval is conditioned upon the taxpayer's posting the bond in accordance with this rule.

b. Bond requests may be made any time after a timely appeal of the jeopardy assessment has been filed with the department in accordance with 701—Chapter 7, except that any bond request whereby the taxpayer seeks to postpone a scheduled sale of assets seized by or on behalf of the department must be filed with the clerk of the appeals section for the department no later than ten days from the date on which notice of the sale was mailed to, or otherwise served upon, the taxpayer. Portions of an assessment that are undisputed must be paid in full at the time a bond request is filed.

11.7(3) *Posting of bond.* If the department accepts the bond request, the taxpayer shall post the bond within 15 days from the date the taxpayer was notified of the acceptance by the department. If the taxpayer fails to post the bond by the deadline, the bond request is deemed rejected and no bond will be allowed.

11.7(4) *Type of bond.*

a. The bond shall be payable to the department for the use of the state of Iowa and shall be conditioned upon the full payment of the tax, penalty, interest, or fees that are found to be due which remain unpaid upon the resolution of the contested case proceedings up to the amount of the bond.

b. A personal bond, without a surety, is only permitted if the taxpayer posts with the clerk of the appeals section for the department, cash, a cashier's check, a certificate of deposit, or other marketable securities which are approved by the department with a readily ascertainable value which is equal in value to the total amount of the bond required. If a surety bond is posted, the surety on the bond may be either personal or corporate. The provisions of Iowa Code chapter 636 relating to personal and corporate sureties shall govern to the extent not inconsistent with the provisions of this subrule.

11.7(5) Form of surety bond. The surety bond posted shall be in substantially the following form:

BEFORE THE IOWA STATE DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF	*	
	*	
(Taxpayer's Name, Address and	*	SURETY BOND
designate proceeding, e.g.,	*	
income, sales, etc.)	*	DOCKET NO.
	*	

KNOW ALL PERSONS BY THESE PRESENTS:

That we _____ (taxpayer) as principal, and _____ (surety), as surety, of the county of _____, and State of Iowa, are held and firmly bound unto the Iowa Department of Revenue for the use of the State of Iowa, in the sum of \$ _____ dollars, lawful money of the United States, for the payment of which sum we jointly and severally bind ourselves, our heirs, devisees, successors and assigns firmly by these presents. The condition of the foregoing obligations are, that, whereas the above-named principal has protested an assessment of tax, penalty, interest, or fees or any combination of them, made by the Iowa Department of Revenue, now if the principal _____ shall promptly pay the amount of the assessed tax, penalty, interest or fees found to be due upon the resolution of the contested case proceedings, then this bond shall be void, otherwise to remain in full force and effect.

Dated this _____ day of _____, _____.

Principal

Surety

Surety

(corporate acknowledgment if surety is a corporation)

AFFIDAVIT OF PERSONAL SURETY

STATE OF IOWA)
COUNTY OF) SS

I hereby swear or affirm that I am a resident of Iowa and am worth beyond my debts the amount set opposite my signature below in the column entitled, "Worth Beyond Debts," and that I have property in the State of Iowa, liable to execution equal to the amount set opposite my signature in the column entitled "Property in Iowa Liable to Execution."

Signature	Worth Beyond Debts	Property in Iowa Liable to Execution
	\$	\$

Surety (type name)

\$ _____ \$ _____

Surety (type name)

Subscribed and sworn to before me the undersigned Notary Public this _____ day of _____, _____.

(Seal)

Notary Public in and
for the State of Iowa

11.7(6) *Duration of bond.* The bond shall remain in full force and effect until the conditions of the bond have been fulfilled or until the bond is otherwise exonerated as provided by law.

11.7(7) *Exoneration of bond.* Upon conclusion of the contested case administrative proceedings, the bond shall be exonerated by the department when any of the following events occur: upon full payment of the tax, penalty, interest, costs or fees found to be due; upon filing a bond for the purposes of judicial review which bond is sufficient to secure the unpaid tax penalty, interest, costs and fees; or if no additional tax, penalty, interest, costs or fees are found to be due that have not been previously paid, upon entry of a final unappealable order which resolves the underlying appeal.

This rule is intended to implement Iowa Code sections 422.30 and 453B.9.

701—11.8(421,422) *Application of payments to fees, penalty, interest, and then tax due.* This rule governs the application of payments for all taxes and charges administered by the department.

11.8(1) *Reapplication of prior payments.* The department will not reapply prior payments made on or before the due date of the original return by the taxpayer to penalty or interest determined to be due after the date of those prior payments. However, the department will apply payments to penalty and interest which were due at the time the payment was made.

Example (a) — Delinquent Return

- a. Tax due is \$1,000.
- b. Return filed two months late.
- c. \$1,000 paid with the return.
- d. Assume 0.7% monthly interest for purpose of example.
- e. The department bills the additional tax in the third month after the due date. The taxpayer pays the assessment in the third month.

The computation of fees, penalty, interest, and tax is shown below:

Tax	\$1,000.00
Penalty	100.00 (5% failure to file penalty and 5% failure to timely pay penalty)
Interest	14.00 (2 months interest)
Subtotal	\$1,114.00
Less payment	(1,000.00)
Remaining tax due	\$ 114.00
Interest	.80 (1 month interest)
Total due	\$ 114.80

Two years after the due date, the Internal Revenue Service conducts an audit and increases the taxpayer's taxable income. The department redetermines the taxpayer's liability 26 months after the due date as follows:

Tax as redetermined by the department	\$1,100.00
Penalty	110.00 (5% failure to file penalty and 5% failure to timely pay penalty)
Interest	15.40 (2 months interest)
Less payment	(1,000.00)
Subtotal	\$225.40
Interest	1.58 (1 month interest)
Less payment	(114.80)

Remaining tax due	\$112.18
Interest	18.06 (23 months interest)
Total due	<u>\$ 130.24</u>

Example (b) — Timely Filed No Remit

- Tax due is \$1,000.
- Return timely filed.
- \$0 paid.
- Assume 0.7% monthly interest for purpose of example.

The calculation for the total amount due five months after the due date is shown below:

Tax	\$1,000.00
Penalty	50.00 (5% failure to timely pay penalty)
Interest	35.00 (5 months interest)
Total due	<u>\$1,085.00</u>

The department bills the amount due in the fifth month after the due date and the taxpayer pays the billed amount in the eighth month after the due date. The payment is applied as follows:

Tax	\$1,000.00
Penalty	50.00 (5% failure to timely pay penalty)
Interest	56.00 (8 months interest)
Subtotal	<u>\$1,106.00</u>
Less payment	<u>(\$1,085.00)</u>
Remaining tax due	\$ 21.00

Taxpayer does not pay the remaining tax due of \$21, which continues to accrue interest. Three years after the due date the taxpayer reports the result of an Internal Revenue Service audit which increases the taxpayer's income and tax due to the department. The department recomputes the taxpayer's liability as follows:

Tax as redetermined by the department	\$1,200.00
Penalty	60.00 (5% failure to timely pay penalty)
Interest	67.20 (8 months interest)
Less payment	<u>(\$1,085.00)</u>
Remaining tax due	\$ 242.20
Interest	47.47 (28 months interest)
Total due	<u>\$289.67</u>

11.8(2) Refunds from department audit. In those instances where a department audit reduced the amount of tax, fees, penalty, and interest due over the amount paid, the department will, when possible, reapply payments so that the amount refunded is tax on which interest will accrue as set forth in the Iowa Code.

11.8(3) Partial payments.

a. Where partial payments are made, the department will apply payments to fees, penalty, interest, and then to tax due. If fees, penalty, interest, and tax are due and owing for more than one tax period, any payment must be applied first to the fees, penalty, then the interest, then the tax for the earliest period, then to the fees, penalty, interest, and tax for each following tax period in chronological order from the earliest tax period to the latest tax period, until the payment is exhausted.

b. Where there are both agreed-to and unagreed-to items as a result of an audit, the taxpayer and the department may agree to apply payments to the fees, penalty, interest, and then to tax due on the agreed-to items of the audit when all of the fees, penalty, interest, and tax on the agreed-to items are paid. In these instances, subsequent payments will not be applied to fees, penalty, and interest accrued on the agreed-to items of the audit.

11.8(4) Taxpayer designation of tax type and period to which voluntary payments are to be applied.

a. A taxpayer may designate in a separate written instruction at the time a voluntary payment is made the type of tax and tax periods to which any voluntary payment is to be applied.

b. The taxpayer may not designate the application of a voluntary payment between fees, penalty, interest, and tax due for a particular type of tax or tax period.

c. The taxpayer may not designate the application of payments which are the result of a jeopardy assessment or enforced collection. Enforced collection includes, but is not limited to, garnishment of wages or bank accounts, setoff of public payments as defined in Iowa Code section 421.65, and seizure of assets.

This rule is intended to implement Iowa Code sections 421.60 and 422.25.

ITEM 2. Amend paragraph **202.6(1)“f”** as follows:

f. ~~Record-keeping~~ *Recordkeeping requirements*. The parties involved in transactions involving a direct pay permit shall have the following ~~record-keeping~~ *recordkeeping* duties:

(1) Permit holder. The holder of a direct pay permit will retain possession of the direct pay permit and keep a record of all transactions made pursuant to the direct pay permit in compliance with rule ~~701—11.4(423)~~ *701—11.3(321,421,423,452A,453A)*.

(2) Vendor. A vendor will retain a valid exemption certificate under rule ~~701—288.3(423)~~ *701—209.1(423)* that is received from the direct pay permit holder and retain records of all transactions engaged in with the permit holder in which tax was not collected, in compliance with rule ~~701—11.4(423)~~ *701—11.3(321,421,423,452A,453A)*. A vendor's liability for uncollected tax is governed by the liability provisions of a seller under an exemption certificate set forth in rule ~~701—288.3(423)~~ *701—209.1(423)*.

ITEM 3. Adopt the following new rule ~~701—202.18(422,423)~~:

~~701—202.18(422,423)~~ Information disclosures to certain persons.

202.18(1) When requested to do so by any person having a legitimate interest in such information, the department shall, after being presented with sufficient proof of the entire situation, disclose to the person the amount of unpaid sales or use taxes due by a taxpayer. The person shall provide the department with sufficient proof consisting of all relevant facts and the reason or reasons for seeking information as to the amount of unpaid taxes due by the taxpayer. The information sought shall not be disclosed if the department determines that the person requesting information does not have a legitimate interest. Examples of those who might seek information on a taxpayer are persons from whom a taxpayer is seeking credit, or with whom the taxpayer is negotiating the sale of any personal property.

202.18(2) Upon request, the department may disclose to any person whether or not a taxpayer has a sales tax permit because the law requires the taxpayer's permit to be conspicuously posted at all times in the taxpayer's place of business, thus becoming public information.

202.18(3) The information disclosed pursuant to this rule is not a violation of Iowa Code section 422.72.

This rule is intended to implement Iowa Code sections 422.72, 423.42, and 423.23.

ITEM 4. Adopt the following new rule ~~701—202.19(423)~~:

~~701—202.19(423)~~ 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 Iowa Code section 423.35, the director has determined that the following procedures apply with regard to bonds:

202.19(1) *When required.*

a. *New applications for sales tax permits.*

(1) An applicant for a new sales tax permit may be required 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 be unable to timely remit the tax, or

2. The new applicant held a permit for a prior business and the remittance record of the tax under the prior permit falls within one of the conditions in paragraph 202.19(1) “b,” or

3. The department experienced collection problems while the applicant was engaged in business under the prior permit, 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 paragraph 202.19(1) “b” or the person had a previous sales tax permit that has been revoked.

(2) The applicant is substantially similar to the extent that said applicant is owned or controlled by persons who owned or controlled the previous permit holder. For example, X, a corporation, had a previous sales tax permit revoked. X is dissolved, and its shareholders create a new corporation, Y, which applies for a sales tax permit. The persons or stockholders who controlled X now control Y. Therefore, Y will be requested to post a bond or security.

b. Existing permit holders.

(1) Existing permit holders may be required to post a bond or security under the following circumstances:

1. When they have had one or more delinquencies in remitting the sales tax or filing timely returns during the last 24 months if filing returns on an annual basis.

2. When they have had four or more delinquencies in remitting the sales tax or filing timely deposits or returns during the last 24 months if filing returns on a monthly basis.

(2) 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 the late payment of the tax will not count as a delinquency if the permit holder has satisfied one of the conditions set forth in Iowa Code section 421.27.

c. Return of bond. If a permit holder has been required to post a bond or security or if an applicant for a permit has been required to post a bond or security, upon the filing of the bond or security if the permit holder maintains a good filing record for a period of two years, the permit holder may request that the department return the bond or security. The department may elect to return the bond without a request from the permit holder.

d. Applying bond. The department may apply a bond to any existing tax liability of the permit holder at its discretion.

202.19(2) *Type of security or bond.*

a. When it is determined that a permit holder or applicant for a sales tax permit is required to post collateral to secure the collection of the sales 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 the following:

- (1) Cashier’s check,
- (2) Money order, or
- (3) Certified check.

b. 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 acknowledgement of assignment from the bank must accompany the original certificate of deposit filed with the department. When a permit holder elects to post cash rather than a certificate of deposit as a bond, conversion to certificate of deposit will not be allowed. When the permit holder is a corporation, an officer of the corporation may assume personal liability as security for the payment of the sales tax. The officer will be evaluated as provided in subrule 202.19(1) as if the officer applied for a sales tax permit as an individual.

202.19(3) *Amount of bond or security.* When it is determined that a permit holder or applicant for a sales tax permit is required to post a bond or securities, the following guidelines will be used to determine the amount of the bond unless the facts warrant a greater amount:

a. If the permit holder or applicant will be or is a monthly filer, a bond or securities in an amount sufficient to cover five months’ sales tax liability will be required.

b. If the applicant or permit holder will be or is an annual filer, the bond or securities that will be required would be in the amount of one year’s tax liability.

c. The department does not accept bonds for less than \$100. If the bond amount is calculated to be less than \$100, a \$100 bond is required.

This rule is intended to implement Iowa Code section 423.35.

ITEM 5. Adopt the following new rule 701—202.20(423):

701—202.20(423) Taxpayer records—specific requirements. Records required to be kept in accordance with rule 701—11.3(321,421,423,452A,453A) include but are not limited to the following:

202.20(1) A daily record of the amount of all cash and time payments and credit sales.

202.20(2) A record of the amount of all merchandise purchased and of all services performed for a taxpayer, including all bills of lading, invoices and copies of purchase orders.

202.20(3) A record of all deductions and exemptions taken in filing an Iowa tax return.

202.20(4) A true and complete inventory of the value of the stock on hand taken at least once a year. This includes an inventory of merchandise accepted as partial payment of the sales price on new merchandise.

202.20(5) An accurate record of all services performed, including materials purchased for use in performing these services.

202.20(6) Exemption certificates that are evidence of exempt sales; 701—Chapter 209 contains more information.

This rule is intended to implement Iowa Code section 423.41.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8915C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to nonlocal business entity bond forfeitures

The Revenue Department hereby adopts Chapter 28, “Nonlocal Business Entity Bond Forfeitures,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 9C and 91C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 9C and 91C.

Purpose and Summary

The purpose of this rulemaking is to move content from rule 701—7.30(9C,91C) into a new Chapter 28. The Department is removing portions of the rule that the Department determined are unnecessary, outdated, or duplicative of statutory language pursuant to Executive Order 10. The chapter describes the Department's interpretation of the underlying statute to help the public understand the procedures involved for nonlocal business entity bond forfeitures under Iowa Code chapters 9C and 91C. Creating a new chapter for this information provides a more logical location for the information than where it was previously included in 701—Chapter 7. This move will make the information easier to find.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8330C**. Two public hearings were held on the following date(s):

- December 4, 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 Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 28:

CHAPTER 28

NONLOCAL BUSINESS ENTITY BOND FORFEITURES

701—28.1(9C,91C) Procedure. The following subrules shall govern the procedure for that forfeiture under Iowa Code chapters 9C and 91C.

28.1(1) Definitions.

“*Nonlocal business entity*” is either an out-of-state contractor or a transient merchant as those terms are defined in this subrule.

“*Out-of-state contractor*” means a general contractor, subcontractor, architect, engineer, or other person who contracts to perform in this state construction or installation of structures or other buildings or any other work covered by Iowa Code chapter 103A and whose principal place of business is outside Iowa.

“*Taxes payable*” means any amount referred to in the definitions of “taxes payable by an out-of-state contractor” and “taxes payable by a transient merchant.”

“*Taxes payable by an out-of-state contractor*” means tax, penalty, interest, and fees that the department, another state agency, or a subdivision of the state has determined to be due by assessment or

due as a result of an appeal from an assessment. The tax assessed must accrue as the result of a contract to perform work covered by Iowa Code chapter 103A.

“Taxes payable by a transient merchant” refers to all taxes administered by the department and penalties, interest, and fees that the department has previously determined to be due by assessment or due as a result of an appeal from an assessment.

“Transient merchant,” for the purposes of this rule, means the same as defined in Iowa Code section 9C.1.

28.1(2) *Increases in existing bonds.* If an out-of-state contractor has on file with the secretary of state a bond for any particular contract and for that particular contract the contractor has tax due and owing but unpaid and this tax is greater than the amount of the bond, the department shall require the out-of-state contractor to increase the bond on file with the secretary of state in an amount sufficient to pay tax liabilities that will become due and owing under the contract in the future.

28.1(3) *Responsibility for notification.* Concerning taxes that are payable by an out-of-state contractor but that are not administered by the department of revenue, it shall be the duty of the department or subdivision of Iowa state government to which the taxes are owed to notify the department of revenue of the taxes payable by the out-of-state contractor in order to institute bond forfeiture proceedings or an increase in the amount of the bond that the out-of-state contractor must post.

28.1(4) *Initial notification.* After it is determined that a bond ought to be forfeited, notice of this intent shall be sent to the nonlocal business entity and its surety of record, if any, in accordance with Iowa Code section 91C.7(4). This notice may be sent by ordinary mail. The notice shall state the intent to demand forfeiture of the nonlocal business entity’s bond, the amount of bond to be forfeited, the nature of the taxes alleged to be payable, the period for which these taxes are due, and the department or subdivision of Iowa to which the taxes are payable. The notice shall also state the statutory authority for the forfeiture and the right to a hearing upon timely application.

28.1(5) *Appeal of bond forfeiture.* The application of a nonlocal business entity for a hearing shall be written and substantially in the form set out for appeals of other department action in rule 701—7.8(17A). The caption of the application shall be basically in the form set out in 701—subrule 7.8(5), except the type of proceeding shall be designated as a bond forfeiture collection. The body of the application for hearing must substantially resemble the body of the protest described in 701—subrule 7.8(5). However, referring to 701—numbered paragraph 7.8(5) “b”(2)“1,” the nonlocal business entity shall state the date of the notice described in subrule 28.1(4). With regard to 701—subparagraph 7.8(5) “b”(2), in the case of a tax payable that is not administered by the department, the errors alleged may be errors on the part of other departments or subdivisions of the state of Iowa. The application for hearing shall be filed with the department’s administrative law judge in the manner described in rule 701—7.9(17A). The docketing of an application for hearing shall follow the procedure for the docketing of an appeal under that rule.

28.1(6) *Prehearing, hearing and rehearing procedures.* The following rules are applicable to preliminary and contested case proceedings under this rule: 701—7.3(17A) through 701—7.14(17A) and 701—7.17(17A) through 701—7.23(17A).

28.1(7) *Sureties and state departments other than revenue.* If there exist taxes payable by an out-of-state contractor and these taxes are payable to a department or subdivision of state government other than the department of revenue, that department or subdivision shall be the real party in interest to any proceeding conducted under this rule and it shall be the responsibility of that department or subdivision to provide its own representation and otherwise bear the expenses of representation.

This rule is intended to implement Iowa Code sections 9C.4 and 91C.7.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8916C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rulemaking related to miscellaneous operational rules of the lottery**

The Revenue Department hereby adopts Chapter 1100, “Miscellaneous Operational Rules of the Lottery,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.9, 99G.25 and 99G.30.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.9, 99G.25 and 99G.30.

Purpose and Summary

This chapter provides generally applicable rules that govern the operation of the Iowa Lottery that do not fit neatly in other rule chapters. Because this chapter falls under the Iowa Lottery Authority’s portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapters 1 and 2 are rescinded. This rulemaking readopts the chapters under the Department of Revenue as 701—Chapter 1100. Finally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8347C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1100:

CHAPTER 1100
MISCELLANEOUS OPERATIONAL RULES OF THE LOTTERY

701—1100.1(99G) Promotional use of tickets by persons without lottery licenses. Tickets may be given away for promotional purposes by persons without a lottery license in conjunction with the purchase of a product or service or an admission fee without violating this provision provided that the actual cost of the product or service or admission fee is not calculated to include the ticket price, and the promotion is not designed, intended, or conducted to circumvent the department's licensing requirements.

This rule is intended to implement Iowa Code sections 99G.9, 99G.25, and 99G.30.

701—1100.2(99G) Background and informational statements.

1100.2(1) All prospective vendors for major procurements, and any other prospective vendor as required by the department, shall submit to criminal history and background investigations as conditions for submission of a bid. Any person identified as an officer, director, trustee, partner, sole proprietor, employee, or other person identified by the department as a key person in a sensitive position or relationship with a prospective vendor may also be required to submit to a criminal history and background investigation as required by the department.

Prospective vendors, and any individual identified as a key person, will comply with all requirements necessary for criminal history and background investigations as determined by the department. Failure to comply with all requirements may result in bid disqualification.

1100.2(2) Any change in key personnel during the bidding process or during the contract term must be reported to the department before the change occurs. Replacement personnel will be subject to investigation.

1100.2(3) If a prospective vendor or any key personnel thereof is found to have been convicted of any felony related to the security or integrity of the lottery in Iowa or any other jurisdiction, the prospective vendor will be automatically disqualified from the selection process without further investigation.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8917C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rulemaking related to prizes**

The Revenue Department hereby adopts Chapter 1101, “Prizes,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.9, 99G.21, 99G.30 and 99G.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.9, 99G.21, 99G.30 and 99G.31.

Purpose and Summary

This chapter provides generally applicable rules that govern claiming and payment of prizes when players win games offered by the Iowa Lottery. Because this chapter falls under the Iowa Lottery Authority’s portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 11 is rescinded. This rulemaking readopts the chapter under the Department of Revenue as Iowa Administrative Code 701—Chapter 1101. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8348C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1101:

CHAPTER 1101
PRIZES

701—1101.1(99G) Claiming prizes.

1101.1(1) A prize claim shall be entered in the name of a single individual or organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses or has applied for a federal employer's identification number (FEIN) as issued by the Internal Revenue Service. Groups, family units, organizations, clubs, or other organizations that are not legal entities, do not possess a FEIN, or have not applied for a FEIN must designate one individual in whose name the claim will be entered.

1101.1(2) By submitting a claim, a player agrees that the state, the lottery commission, the lottery division, the department of revenue, and the officials, officers, and employees of each shall be discharged from all further liability upon payment of the prize.

1101.1(3) By submitting a claim, the player also agrees that the prizewinner's name may be used for publicity purposes by the lottery.

1101.1(4) An original ticket or share must be presented before payment of any prize will occur. No reproductions, facsimiles, or copies of any kind are allowed.

1101.1(5) The player must sign the original ticket or share prior to presenting the ticket to another party for the purpose of checking or validating the ticket. The lottery and retailers shall verify that there is a signature on any ticket submitted for checking or validation.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1101.2(99G) Claim period. A prize must be claimed within the time limit specifically designated in these rules or as specified in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1101.3(99G) Invalid tickets not entitled to prize payment. If a ticket presented to the lottery division is invalid pursuant to the terms of these rules or the game specific rules, the ticket is not entitled to prize payment.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1101.4(99G) Ticket is a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature if a signature space is provided. The person who signs the ticket is thereafter considered the owner of the ticket unless circumstances indicate the person is not the rightful owner of the ticket.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1101.5(99G) Assignment of prizes. Payments of prizes will be made as follows:

1101.5(1) If a prize is payable in installments, all future installments of the prize will be made to the person or legal entity that received the initial installment of the prize or to a person designated by the court to receive payment following the prizewinner's death unless otherwise assigned according to these rules.

1101.5(2) The right to control receipt of a lottery prize is substantially limited. See 26 U.S.C. §451 (2019) and Treas. Reg. §1.451-2(a) (1979). The right to receive payment of a lottery prize or a future installment of a lottery prize shall not be sold, assigned or otherwise transferred in any manner without an appropriate judicial order or statutory authorization. An appropriate judicial order is an order of a court of competent jurisdiction.

1101.5(3) In the event that a legal entity other than an individual is entitled to a lottery prize won jointly by more than one individual, the individuals originally entitled to share the prize cannot sell, assign or otherwise transfer their interest in the legal entity receiving prize payment or their right to receive future payments from the legal entity without an appropriate judicial order or statutory authorization. An appropriate judicial order is an order of a court of competent jurisdiction.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1101.6(99G) Prize payment to minors. If the person entitled to a prize is under the age of 18, the payment of the prize may be made by delivery of cash or a check payable to the order of the minor or to a parent or legal guardian of the minor, or other payment methods as determined by the department. Claim forms and tickets submitted by minors must be signed by a parent or legal guardian of the minor.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 99G.30(3), and 99G.31.

701—1101.7(99G) Time of prize payment. The lottery division will pay all prizes within a reasonable time after verifying a claim and determining a winner. The date of the first installment payment of any prize to be paid in installment payments is the date the claim is validated and processed unless these rules or applicable game specific rules specify a different date. Subsequent installment payments will be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The lottery division may, at any time, delay any prize payment to review a change in circumstances relative to the prize awarded, the payee, or the claim.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.30.

701—1101.8(99G) Prizes payable for the life of the winner. If any prize is payable for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner shall be deemed to be 20 years.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

701—1101.9(99G) Prizes payable after death of winner. All prizes and portions of prizes that remain unpaid at the time of the prizewinner's death are payable to the court-appointed representative of the prizewinner's estate or to a single individual pursuant to the terms of a final order closing the estate.

The lottery division may withhold payment until it is satisfied that the proper payee has been identified, or it may petition the court to determine the proper payee. In making payment, the lottery division may rely on the presentation of a certified copy of the letters of appointment as an administrator, executor, or other personal representative for the prizewinner's estate or on a certified copy of the final order closing the estate. Payment to the representative of the estate of the deceased owner of any prize winnings or to another individual pursuant to a final order closing the estate absolves the state, the lottery commission, the lottery division, the department of revenue, and the officials, officers, and employees of each from all further liability for payment of prize winnings.

If the winner received an annuitized prize funded through the Multi-State Lottery Association (MUSL) or any other multijurisdictional lottery organization in which the Iowa lottery participates as a member, the MUSL board or other organization board, as may be appropriate, in its sole discretion, upon the petition of the estate of the prizewinner, may accelerate the payment of all of the remaining lottery proceeds to the estate of the prizewinner. If the winner received an annuitized prize funded solely

through the sales from the Iowa lottery, the lottery division, in its sole discretion, upon the petition of the estate of the prizewinner, may accelerate the payment of all of the remaining lottery proceeds to the estate of the prizewinner. If such a determination is made, then securities or cash held for the deceased prizewinner, that represents the present value of that portion of the future lottery payments that are to be accelerated, will be distributed to the estate. Valuation of the securities and determination of the present value of the accelerated lottery payments are at the sole discretion of the entity granting the petition.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

701—1101.10(99G) Disability of prizewinner. The lottery division may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due a person under a disability. For this rule's purposes, a "disability" includes but is not limited to mental deficiency, and physical or mental incapacity.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

701—1101.11(99G) Stolen or lost tickets. The lottery division has no responsibility for paying prizes attributable to stolen or lost tickets.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

701—1101.12(99G) Effect of game rules. In purchasing a ticket, the player agrees to comply with Iowa Code chapter 99G, these rules, the game specific rules, lottery division instructions and procedures, and the final decisions of the lottery division. The lottery division's decisions and judgments in determining winning tickets, or any other dispute arising from the payment or awarding of prizes, is binding upon all participants in the lottery. If a dispute between the lottery division and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the lottery division may, solely at the lottery division's option, replace the ticket with an unplayed ticket of equivalent price from any game or refund the price of the ticket. This is the player's sole and exclusive remedy. A player who wishes to challenge a determination by the lottery division under this subrule may request a contested case proceeding as described in 701—Chapter 6.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

701—1101.13(99G) Disputed prizes. If there is a dispute, or it appears that a dispute may occur relative to the payment of any prize, the lottery division may refrain from making payment of the prize pending a final determination by the lottery division or by a court of competent jurisdiction as to the proper payment of the prize.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

701—1101.14(99G) Prize payment for prizes paid over a term exceeding ten years.

1101.14(1) A prizewinner who wins a prize that is payable over a term exceeding ten years may, not later than 60 days after the player became entitled to the prize, elect to have the prize paid in cash or by annuity consistent with 26 U.S.C. §451 (2019). If the payment election is not made by the prizewinner at the time of purchase or is not made within 60 days after the prizewinner becomes entitled to the prize, then the prize will be paid as an annuity prize. An election for an annuity payment made by a prizewinner before the ticket purchase or by system default or design may be changed to a cash payment at the election of the prizewinner until the expiration of 60 days after the prizewinner becomes entitled to the prize. The election to take the cash payment may be made at the time of the prize claim or within 60 days after the prizewinner becomes entitled to the prize, whichever is earlier.

An election made after the prizewinner becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed.

1101.14(2) In the event there is more than one prizewinner for a prize paid over a period exceeding ten years, the shares of the prize are determined by dividing the cash available in the prize pool equally among all the winners of the prize. Winners who elect a cash payment will be paid their share in a single cash payment. The annuitized option prize is determined by multiplying a winner's share of the prize pool by the annuity factor used by the lottery division. The lottery division's annuity factor is determined

by the best price obtained through a competitive bid of qualified, preapproved brokers or insurance companies made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days after the prizewinner becomes entitled to the prize.

1101.14(3) The lottery division is not responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount of the prize value purchased from the time the player becomes eligible for the prize and the time the prizewinner claims the prize.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.31.

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ARC 8918C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to licensing

The Revenue Department hereby adopts Chapter 1102, "Licensing," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.7, 99G.9, 99G.21, 99G.24, 99G.27, 99G.30, 99G.35, 252D.9, 252J.2 and 252J.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.7, 99G.9, 99G.21, 99G.24, 99G.27, 99G.30, 99G.35, 252D.9, 252J.2 and 252J.8.

Purpose and Summary

This chapter provides generally applicable rules that govern the Iowa Lottery retail license application process, the conditions for license issuance, and the grounds for license suspension and revocation. Because this chapter falls under the Iowa Lottery Authority's portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 12 is proposed to be rescinded. This rulemaking readopts the chapter under the Department as 701—Chapter 1102. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8349C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1102:

CHAPTER 1102
LICENSING

701—1102.1(99G) Applicant defined. For purposes of determining whether an applicant is eligible for a license, the term “applicant” includes the owner of a sole proprietorship, all partners or participants in a partnership or joint venture, the officers of a fraternal organization, the officers and directors of a corporation, persons owning at least 10 percent or more of a corporation, persons owning at least 10 percent or more of a limited liability company, the manager or managers of a limited liability company, and any legal entity applying for a license.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.24.

701—1102.2(99G,252J,272D) Effect of certain state debts.

1102.2(1) The department will deny a license to any applicant who is an individual if the department has received a certificate of noncompliance from Iowa child support services with regard to the individual until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

1102.2(2) The department will deny a license to any applicant defined by this chapter if the applicant is substantially delinquent in paying any tax due, or the interest or penalty on the tax due, administered by the department at the time of application or if the applicant has current or previous delinquent liabilities collected by the department. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any delinquent tax, penalty, or interest or if a partner has current or previous delinquent liabilities collected by the department. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest or if any officer having a substantial legal or equitable interest in the ownership of the corporation has current or previous delinquent liabilities collected by the department.

This rule is intended to implement Iowa Code sections 99G.7(1), 99G.9(2), 99G.21(2), 99G.24, 252J.8, and 272D.8.

701—1102.3(99G,252J) Factors relevant to license issuance.

1102.3(1) The department's licensing authority under Iowa Code chapter 99G is discretionary. The department may issue a license to any applicant to act as a licensed retailer who meets the eligibility criteria established by Iowa Code chapter 99G and these rules.

1102.3(2) In addition to the license eligibility criteria described in Iowa Code section 99G.24, the department will consider the following factors:

- a. The background of the applicant in the community for honesty;
- b. The financial responsibility;
- c. The type of business owned or operated by the applicant to ensure consonance with the dignity of the state, the general welfare of the people, and the operation and integrity of the lottery;
- d. The accuracy of the information supplied in the application for a license;
- e. The applicant's indebtedness to the state of Iowa, local subdivisions of the state, or the United States government; and, if the applicant is an individual, the applicant's indebtedness for child support payments as indicated by a certificate of noncompliance from Iowa child support services;
- f. Any other criteria or information the department deems relevant to determining if a license should be issued.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 99G.24(5), 252J.8 and 272D.8.

701—1102.4(99G) Financial responsibility. The department will use the following guidelines when determining whether an applicant seeking a license to sell lottery products or a retailer exhibits adequate financial responsibility.

1102.4(1) *Sole proprietorship.* The department will generally consider a sole proprietor to exhibit adequate financial responsibility if the account history for the applicant for the past two years discloses no more than four accounts past due and no accounts over 90 days past due.

1102.4(2) *Partnership.* If the applicant is a partnership, 50 percent of the partners must meet the credit guidelines listed in subrule 1102.4(1) to be considered to exhibit adequate financial responsibility.

1102.4(3) *Fraternal or civic associations.* If the applicant is a fraternal association, civic organization or other nonprofit entity, the applicant must meet the credit guidelines set forth in subrule 1102.4(1) to be considered to exhibit adequate financial responsibility. If the fraternal association, civic organization, or other nonprofit entity has no credit history or the credit history is incomplete, then the officers of the fraternal association, civic organization, or other nonprofit entity must meet the requirements of subrule 1102.4(1) to be considered to exhibit adequate financial responsibility.

1102.4(4) *Corporations and limited liability companies in existence two years or more if a credit risk appraisal is available through a financial and credit reporting entity.* If the license applicant is a corporation or a limited liability company and the corporation or the limited liability company has been in existence for more than two years from the date of the application and a credit risk appraisal is available through a financial and credit reporting entity, the applicant must meet all of the following financial responsibility guidelines to be considered to exhibit adequate financial responsibility:

- a. The applicant is paying 60 percent of its suppliers on time or within terms; and
- b. The applicant possesses a credit risk appraisal provided by a financial and credit reporting entity that indicates the corporation's or limited liability company's financial condition is fair or better.

1102.4(5) *Corporations and limited liability companies in existence less than two years or if a credit risk appraisal is not available through a financial and credit reporting entity.* If a corporation has been in existence for less than two years from the date of the application or a credit risk appraisal is not available through a financial and credit reporting entity, the department will review the credit history of the corporate officers who hold 10 percent or more of the stock of the corporation. If a limited liability company has been in existence for less than two years or a credit risk appraisal is not available through a financial and credit reporting entity, the department will review the credit history of the members of a

limited liability company who have contributed 10 percent or more to the capital of the limited liability company. Fifty percent or more of the corporate officers or members of the limited liability company must meet the credit guidelines set forth in subrule 1102.4(1) to be considered to exhibit adequate financial responsibility.

1102.4(6) *Additional considerations.* If information obtained by the department, when considered as a whole, indicates that the applicant, the retailer, or the applicant's or retailer's business practices are inconsistent with sound financial management or pose a risk to the operation or integrity of the lottery, the department may, in its discretion, determine that an applicant or retailer does not demonstrate the adequate financial responsibility for licensure notwithstanding the guidelines in subrules 1102.4(1) through 1102.4(5).

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(2), 99G.21(2), 99G.24, 99G.30, 252J.2, 252J.8, and 272D.8.

701—1102.5(99G) Bonds.

1102.5(1) *In general.* Any applicant or retailer whose credit history does not meet the guidelines described in subrules 1102.4(1) through 1102.4(5) must obtain a bond from a surety company authorized to do business in Iowa or offer a cash bond in the amounts generally described herein. The department may require any other applicant or retailer to obtain a bond if the department determines a bond is necessary to ensure the applicant or retailer remains in compliance with Iowa Code chapter 99G and these rules.

1102.5(2) *Bond amounts.* The amount of the bond will vary depending on the type of lottery products sold by the license applicant, the sales history of the retail location or the average volume of sales of lottery products at the location, or a combination of the above factors. The department's authority to require a bond is discretionary. When the department determines that a bond is necessary, the following minimum amounts will be required:

- a. Sale of pull-tab tickets only, \$2,500.
- b. Sale of instant tickets and scratch tickets with or without pull-tab tickets, \$5,000.
- c. Sale of online games with or without instant tickets, scratch tickets, and pull-tab tickets, \$10,000.

Additional bond amounts or a new bond may be required by the department at any time if the department determines that an existing bond becomes insufficient or the surety thereon becomes unsatisfactory.

1102.5(3) *Holding period for bond.* The department will hold the bond provided by a license applicant for a minimum time period of one year. Thereafter, the department will review the credit history of the licensed retailer. If the retailer's account history shows no delinquent payments, the lottery may release the bond.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(2), 99G.21(2), and 99G.24.

701—1102.6(99G,252J,272D) Lottery licenses.

1102.6(1) A lottery license authorizes the licensee to sell only the types of lottery products specified on the license. The department has discretion to license a qualified applicant to sell any one or any combination of the following lottery products: scratch tickets, instaplay tickets, pull-tab tickets, and computerized game tickets, if available. The department may condition the ability of a licensee to sell one or more types of lottery products on the applicant's agreement to sell any other lottery product.

1102.6(2) Any eligible applicant may apply for a license to act as a retailer by first filing with the department an application form together with any supplements deemed necessary by the department. Supplements may include but are not limited to authorizations to investigate criminal history, financial records and financial resources, and authorizations to allow the division to conduct site surveys.

1102.6(3) The application fee for a lottery retail license is \$25. The application fee is nonrefundable.

1102.6(4) Retailers who are currently licensed may apply for a license modification to allow the sale of additional lottery products. A current retailer may be required to complete an additional application or application supplements.

1102.6(5) The department may waive the payment of any license fee to facilitate an experimental program or a research project.

1102.6(6) A limited number of retailers may be selected as licensees from applications received. The selection will be made based on criteria designed to produce the maximum amount of net revenue and serve public convenience. The department may refuse to accept license applications for a period of time if the department determines that the number of existing licensees is adequate to market any lottery product.

1102.6(7) The department will grant, deny, or place on hold all applications within 60 days of acceptance of an application. Applications placed on hold are considered denied for purposes of appeal.

If an application is denied because the department has received a certificate of noncompliance from Iowa child support services in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice issued under Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(2), 99G.21(2), 99G.24, 99G.30, 252J.2, 252J.8, and 272D.8.

701—1102.7(99G,252J) Provisional licenses.

1102.7(1) The department may issue a provisional license to an applicant for a lottery license after receipt of a fully completed license application, the authorization for a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional license expires at the time of issuance of the requested license or 90 days from the date the provisional license was issued, whichever occurs first, unless the provisional license is extended by the department.

1102.7(2) Notwithstanding subrule 1102.7(1), the department will deny a provisional license to any applicant who is an individual if the department has received a certificate of noncompliance from Iowa child support services with regard to the individual unless Iowa child support services furnishes the department with a withdrawal of the certificate of noncompliance. If an application is denied because the department has received a certificate of noncompliance from Iowa child support services in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice issued under Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 99G.24(3), 99G.27, 252J.2, and 252J.8.

701—1102.8(99G) Off-premises licenses. Any retailer may apply for an off-premises license to sell tickets in locations other than that specified on the existing license. The department must specifically approve the geographical area in which sales are to be made and the types of locations at which off-premises sales are to be made prior to issuance of an off-premises license. Additional instructions and restrictions may be specified by the department to govern off-premises sales. An off-premises license expires at the time designated on the off-premises license. An off-premises license may be renewed at the department's discretion.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.30.

701—1102.9(99G) Duplicate licenses. Upon the loss, mutilation, or destruction of any license issued by the department, a retailer may apply for a duplicate permit. A statement signed by the retailer that details the circumstances under which the license was lost, mutilated, or destroyed may be required by the department.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 99G.24, and 99G.30.

701—1102.10(99G) Reporting changes in circumstances of the retailer. Every change of business structure of a licensed business, such as from a sole proprietorship to a corporation, and every change in the name of a business must be reported to the department prior to the change. Substantial changes in the

ownership of a licensed business must also be reported to the department prior to the change. A substantial change of ownership is defined as the transfer of 10 percent or more equity in the licensed business from or to another single individual or legal entity. If a change involves the addition or deletion of one or more existing owners or officers, the licensee shall submit a license application reflecting the change and any other documentation the department may require. All changes will be reviewed by the department to determine if the existing license should be continued.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), and 99G.27(1).

701—1102.11(99G) License not a vested right. The possession of a lottery retailer license issued by the department to act as a retailer in any capacity is a privilege personal to that licensee and is not a legal right. The possession of a lottery license issued by the department to act as a retailer in any capacity does not automatically entitle that licensee to sell tickets or obtain materials for any particular game.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21(2).

701—1102.12(99G,252J,272D) Suspension or revocation of a license.

1102.12(1) In addition to the criteria for suspension or revocation described in Iowa Code section 99G.27, the department may suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

- a. Failing to meet or maintain the eligibility criteria for license application and issuance established by Iowa Code chapter 99G or these rules.
- b. Failing to file any return or report or to keep records required by the lottery division.
- c. Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments that are dishonored or electronic funds transfers that are not paid.
- d. If public convenience is adequately served by other licensees.
- e. A history of thefts or other forms of losses of tickets or revenue from the business.
- f. Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control.
- g. Obtaining a license by fraud, misrepresentation, concealment or through inadvertence or mistake.
- h. Making a misrepresentation of fact to the commission or department on any report, record, application form, or questionnaire that is submitted to the commission or department.
- i. Denying the division or its authorized representative, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted.
- j. Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the license.
- k. Systematically pursuing economic gain in an occupational manner or context that is in violation of the criminal or civil public policy of this state if such pursuit creates cause to believe that the participation of such person in these activities is inimical to the proper operation of an authorized lottery.
- l. Failing to follow the instructions or security procedures of the division for the management of personnel, handling of tickets, or the conduct of any particular game or special event.
- m. Making a misrepresentation of fact to a purchaser, or prospective purchaser, of a ticket or to the general public with respect to the conduct of a particular game or special event.
- n. For a licensee who is an individual, when the department receives a certificate of noncompliance from the child support recovery unit in regard to the licensee unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.
- o. Allowing activities on the licensed premises that could compromise the dignity of the state.

1102.12(2) The effective date of revocation or suspension of a license as specified in the notice issued under Iowa Code section 252J.8 is 60 days following service of the notice upon the licensee. The effective date for all other notices of revocation or suspension is 20 days following service upon a licensee.

1102.12(3) If a retailer's license is suspended for more than 180 days from the effective date of the suspension, the department will revoke the retailer's license upon 15 days' notice served in conformance with rule 701—1102.11(99G,252J,272D).

1102.12(4) Upon suspicion that a retailer has sold a ticket to an underage player, the department will investigate and provide a written warning to the retailer describing the report of the event and of the potential violation of Iowa Code section 99G.30(3). In the event a retailer sells a ticket to an underage player and the department can substantiate the claim, the department will suspend the retailer's license for seven days. When a retailer sells a ticket to an underage player and the department can substantiate the claim a second time in a period of one year from the date of the first event, the department will suspend the retailer's license for a period of 30 days. When a retailer sells a ticket to an underage player and the department can substantiate the claim a third time in a period of one year from the date of the first event as described in this rule, the retailer's license will be suspended for one year.

1102.12(5) Upon revocation or suspension of a retailer's license of 30 days or longer, the retailer will surrender to the department, by a date designated by the department, the license, lottery identification card, and all other lottery property. The department will settle the retailer's account as if the retailer had terminated its relationship with the department voluntarily.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 99G.24, 99G.27, 99G.30(3), 99G.35, 252J.8, and 272D.8(2).

701—1102.13(99G,252J,272D) Methods of service.

1102.13(1) The notice issued under Iowa Code section 252J.8 will be served upon the licensee by certified mail restricted delivery, 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.

1102.13(2) Notice of a license revocation or a suspension for the reasons described in Iowa Code section 99G.27 or rule 701—1102.12(99G,252J,272D) will be served upon the licensee by certified mail restricted delivery, 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. The notice will set forth the reasons for the suspension or revocation and provide for an opportunity for a hearing. If requested by the licensee, a hearing on the suspension or revocation will be held within 180 days after the notice has been served.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 99G.24(7), 252J.8, and 272D.8.

701—1102.14(99G,252J,272D) Licensee's obligation. Licensees and license applicants must keep the lottery informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J. Licensees and applicants must also provide the department with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9 or 272D.9, any final court orders entered in such actions, and any withdrawals of certificates of noncompliance by the child support recovery unit.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 252J.8, and 272D.8.

701—1102.15(99G,252J,272D) Calculating the effective date. In the event a licensee or applicant files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the department 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 department to proceed. For purposes of determining the effective date of a revocation or suspension of a license, or a denial of the issuance or renewal of a license, the department 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.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21(2), 252J.8, 252J.9, 272D.8, and 272D.9.

[Filed 1/29/25, effective 3/26/25]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8919C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to responsibilities of retailers

The Revenue Department hereby adopts Chapter 1103, "Responsibilities of Retailers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.9, 99G.25 and 99G.30.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.9, 99G.25 and 99G.30.

Purpose and Summary

This chapter provides generally applicable rules that outline the responsibilities of retailers licensed by the Iowa Lottery to sell lottery products. Because this chapter falls under the Iowa Lottery Authority's portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 13 is rescinded. This rulemaking readopts the chapter under the Department of Revenue as 701—Chapter 1103. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8350C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1103:

CHAPTER 1103
RESPONSIBILITIES OF RETAILERS

701—1103.1(99G) Licensed retailers. All retailers shall be licensed in the manner provided in Iowa Code chapter 99G and these rules. Retailers shall abide by all applicable laws and administrative rules, the terms and conditions of the license, and all other directives and instructions issued by the lottery.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.24, 99G.25, 99G.27, 99G.30, and 99G.31.

701—1103.2(99G) Requirements for the sale of tickets.

1103.2(1) Retailers shall be knowledgeable about the lottery and lottery products and may be required to take training in the operation of lottery games. Retailers shall make the purchase of tickets convenient to the public.

1103.2(2) No retailer or any employee or member of a retailer shall attempt to identify a winning ticket prior to the sale of the ticket.

1103.2(3) Except as the lottery may allow in its discretion, retailers shall pay all prizes that the department requires retailers to pay during normal business hours at the location designated on the license.

1103.2(4) Retailers shall not purchase tickets previously sold by the retailer.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.30, and 99G.31.

701—1103.3(99G) Display and availability of rules and promotional materials provided by the lottery.

1103.3(1) Retailers shall display brochures, flyers, or similar items provided by the lottery that are designed to provide the rules of lottery games near the point at which tickets are sold.

1103.3(2) Retailers shall display point-of-sale material provided by the lottery in a manner that is readily seen by and available to the public. The lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the lottery.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.24, and 99G.27.

701—1103.4(99G) Ownership of tickets and other property.

1103.4(1) All instant tickets and pull-tab tickets accepted by a licensed retailer are the property of the licensed retailer. Tickets that are erroneous or mutilated when received by a retailer may be returned

to the department for credit. After confirmation of delivery, the retailer is responsible for the condition and security of the tickets and for any losses resulting from tickets that become lost, stolen, or damaged. The department may credit retailers for lost, stolen, or damaged tickets if the department determines that the best interests of the lottery will be served by issuing a credit.

1103.4(2) Unless otherwise indicated in writing, all department property provided to a licensed retailer for use in selling products, as opposed to property and tickets sold to a retailer, remains the property of the department. The retailer shall deliver department property to the department upon request.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(2), 99G.24, and 99G.27.

701—1103.5(99G) Retailer costs and compensation.

1103.5(1) Pull-tab tickets are available for purchase by a retailer for a price equal to the retail price of the tickets less the value of prizes that the retailer is obligated to pay and any discounts or commissions authorized by the lottery.

1103.5(2) Scratch tickets are available for purchase by a retailer at retail price, and the department will credit the retailer's account for validations and commissions.

1103.5(3) The department may impose a service fee on retailers to cover operational costs.

1103.5(4) The department, with commission approval, shall set the base amount of retailer compensation. The base amount of compensation shall be specified in the agreement between the retailer and the department. The department may increase the total amount of retailer compensation by implementing sales incentive programs.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.24.

701—1103.6(99G) Retailer payment methods. Retailers are required to pay for lottery tickets or shares by means of an electronic funds transfer from the retailer's account. Generally, an electronic funds transfer (EFT) from a retailer's account is the only permitted method of payment for lottery tickets or shares purchased by a retailer. The department may allow a retailer to make payments by another method if the retailer can show that the EFT system imposes a significant hardship on the retailer or if the department determines that the retailer's payment history justifies use of an alternative payment method.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(2), and 99G.28.

701—1103.7(99G) Dishonored checks and electronic funds transfers. Any payment made to the lottery by an applicant for a license or by a licensed retailer either by a check that is dishonored or by an EFT that is not paid by the depository shall be grounds for immediate denial of the application for a license or for the suspension or revocation of an existing license. The department may assess a surcharge up to the maximum allowed by applicable state law for each dishonored check or unpaid EFT. The department may also alter the payment terms of a retailer's license and require a retailer to reimburse the lottery for costs that occur as a result of a dishonored check or unpaid EFT.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.24, and 99G.27.

701—1103.8(99G) Inspection of lottery materials and licensed premises. Retailers shall allow the department to enter upon the licensed premises in order to inspect lottery materials, tickets, equipment and the premises. All books and records pertaining to the retailer's lottery activities shall be available to the department for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's lottery activities are subject to seizure by the department without prior notice.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.24, 99G.27, 99G.28, and 99G.35.

701—1103.9(99G) Individuals who may sell lottery tickets. The retailer is responsible for the conduct of its employees and members that is within the scope of the retailer's lottery license. If the retailer is a nonprofit organization, members of the organization may also sell lottery tickets if authorized by the organization.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.24, and 99G.30.

701—1103.10(99G) Ticket sales restrictions. The lottery reserves the right to limit or terminate the sale of computerized game tickets at any licensed retail location if such sales may compromise the operation and integrity of the lottery, reflect conduct prejudicial to the public confidence in the lottery or reflect activity of an illegal nature under local, state or federal laws.

1103.10(1) Plays may only be entered manually using the lottery terminal keypad or touch screen or by means of a play slip provided by the lottery and hand-marked by the player or by such other means approved by the lottery. Retailers are not permitted to connect any device to a lottery terminal to enter plays, except as approved by the department.

1103.10(2) A ticket or combination of tickets that would guarantee such purchaser a jackpot win may not directly and knowingly be sold to any person or entity.

1103.10(3) An offer to buy and an offer to sell a ticket are only permitted at a location and only by a method that is licensed by the department.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, 99G.24, and 99G.27.

701—1103.11(99G) Placement of lottery equipment. The department, in its sole discretion, will determine the need for, type of, and placement of any lottery equipment to be installed at licensee sales outlet locations. In the exercise of discretion, the department may consider any of the following:

1. The availability of equipment.
2. The suitability of the type of equipment for the specific retail outlet under consideration.
3. The location, equipment, business type, and proximity of other extant retail outlets compared with an outlet under consideration.
4. The sufficiency of existing licensed outlets to serve the public convenience.
5. Such minimum sales criteria as may be appropriate based on current market conditions.
6. The cost of equipment and potential return on investment.
7. Such other factors as the department may deem appropriate to the exercise of prudent business judgment in reaching a decision.

The decision of the department regarding placement of equipment is solely discretionary and final.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.7, 99G.12, and 99G.21.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8920C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to scratch ticket and instaplay ticket general rules

The Revenue Department hereby adopts Chapter 1104, "Scratch Ticket and InstaPlay Ticket General Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.3, 99G.9, 99G.21 and 99G.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.3, 99G.9, 99G.21 and 99G.31.

Purpose and Summary

This chapter provides generally applicable rules that govern all scratch ticket and InstaPlay ticket games offered by the Iowa Lottery. Because this chapter falls under the Iowa Lottery Authority's portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 18 is rescinded. This rulemaking readopts the chapter under the Department as 701—Chapter 1104. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8351C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 701—Chapter 1104:

CHAPTER 1104

SCRATCH TICKET AND INSTAPLAY TICKET GENERAL RULES

701—1104.1(99G) Authorization of instant ticket games. The lottery commission authorizes the sale of scratch tickets and instaplay tickets that meet the criteria set forth in this chapter.

This rule is intended to implement Iowa Code section 99G.9(2).

701—1104.2(99G) Definitions.

“Instaplay ticket” means a ticket printed on lottery terminal paper with play symbols that are not concealed by a removable covering.

“Play symbols” means the numbers or symbols appearing under the removable covering on a scratch ticket or on the face of an instaplay ticket.

“Scratch ticket,” as used in this chapter, means the same as “instant ticket” as defined in Iowa Code section 99G.3(8).

“Validation number” means the characters or numbers found on a ticket or ticket stub used by the department to determine whether a ticket or ticket stub is authentic.

This rule is intended to implement Iowa Code sections 99G.3 and 99G.9(2).

701—1104.3(99G) Method of play. Winners of a prize may be determined by such activities as locating, matching, or adding the play symbols on the tickets or by any other play action approved by the lottery division. The exact method of determining a winning ticket will be determined by the lottery division and shall be set forth in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1104.4(99G) Prizes.

1104.4(1) The number and amount of prizes in any specific scratch ticket or instaplay ticket game will be determined by the lottery division and set forth in the game specific rules applicable to that game.

1104.4(2) At the lottery division’s discretion, a scratch ticket game or an instaplay ticket game may include a special prize event. The number of prizes and the amount of each prize in the prize event will be determined by the lottery division. The dates and times, as well as the procedures for conducting any prize events, will be determined by the lottery division in the game specific rules. Finalists for prize events will be selected in the manner stated in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1104.5(99G) Annuity prizes. If a prize offered in a scratch ticket game or an instaplay ticket game is an annuity, the prize will consist of an initial prize payment followed by yearly installments as described in the game specific rules. If the current cash value of an annuity prize attributable to a single ticket or entry is less than \$100,000, the lottery division may elect to pay the current cash value of the prize in one lump-sum payment.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1104.6(99G) Disclosure of odds. The overall probability of purchasing a winning ticket will be displayed on the lottery division’s website and in game literature made available by the lottery division.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1104.7(99G) Claiming prizes.

1104.7(1) *Claim period.* Scratch ticket prizes must be claimed within 90 days of the announced end of the scratch ticket game. Instaplay ticket prizes must be claimed within 90 days of the date of sale of the instaplay ticket.

1104.7(2) *Prizes claimed at retailer.* The game specific rules shall specify prizes that shall be claimed from the retailer. To claim a prize from a retailer, the winner shall sign the back of the winning ticket and fill out a claim form if required by the game specific rules. If a retailer can verify the claim, the retailer shall pay the prize. If a retailer cannot verify the claim, the player may claim the prize from another retailer or may submit the ticket and a completed claim form to the lottery division. If the claim is validated by the lottery division, a draft shall be forwarded to the player in payment of the amount due. If the claim is not validated by the lottery division, the claim shall be denied and the player shall be promptly notified.

1104.7(3) *Prizes claimed at a lottery division office.* The game specific rules may specify prizes that may be claimed only from the lottery division. To claim a prize from the lottery division, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office

and the ticket to any lottery office or may mail the ticket and claim form to the Iowa lottery division's main office as defined in rule 701—2.3(17A). If the claim is validated by the lottery, the prize or a check, warrant, or draft will be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding and less any applicable setoff withheld under Iowa Code section 99G.41. If the claim is not validated by the lottery, the claim is denied and the player will be promptly notified.

1104.7(4) *Variation by game specific rules.* The game specific rules may vary the terms of this rule in respect to the manner in which prizes are claimed or the claim period applicable to any scratch ticket game or instaplay ticket game or special event.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1104.8(99G) Ticket validation requirements.

1104.8(1) To be a valid scratch ticket, a ticket must meet all of the following validation requirements. A ticket must:

- a. Have been issued in an authorized manner as determined by the lottery division.
- b. Not be altered, unreadable, reconstructed, or tampered with in any manner.
- c. Not be counterfeit in whole or in part.
- d. Not be stolen or appear on any list of omitted tickets on file with the lottery division.
- e. Be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.
- f. Have play symbols and captions as described in the game specific rules. All symbols, numbers, and codes must be present in their entirety, legible, right side up, and not reversed in any manner.
- g. Have the appropriate bar code, pack-ticket number, retailer verification code, and security code.
- h. Have a validation number that appears on the lottery division's official list of validation numbers of winning tickets. A ticket with that validation number shall not have been previously paid.
- i. Pass all additional validation requirements stated in the game specific rules and any confidential validation requirements established by the lottery.

1104.8(2) To be a valid instaplay ticket, a ticket must meet all of the following validation requirements. A ticket must:

- a. Have been issued in an authorized manner as determined by the lottery division.
- b. Not be altered, unreadable, reconstructed, or tampered with in any manner.
- c. Not be counterfeit in whole or in part.
- d. Not be stolen, canceled, or appear on any list of omitted or test tickets on file with the lottery division.
- e. Be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.
- f. Have play symbols and captions as described in the game specific rules. All symbols, numbers, and codes must be present in their entirety, legible, right side up, and not reversed in any manner.
- g. The information on the ticket or share must correspond precisely with the lottery division's computer record.
- h. The ticket or share serial number must appear in its entirety and correspond, using a computer validation file, to the winning game play or plays printed on the ticket or share.
- i. A ticket or share shall be void unless the ticket or share is printed on a paper stock roll that was validly issued to and used, at the time of the play, by the retailer from which the ticket or share was purchased.
- j. Pass all additional validation requirements stated in the game specific rules and any confidential validation requirements established by the lottery division.

1104.8(3) Any ticket not passing all applicable validation requirements is invalid and is ineligible for any prize. The lottery division determination that a ticket is invalid is binding on all participants in the lottery. The lottery division may choose to pay an amount equal to the prize that would have been won on an invalid ticket if the lottery division is able to determine the prize that would have been won by use of a symbol, number, color code, or other mechanism. The lottery division's decision as to

whether to pay a player the sum equal to the prize on an invalid ticket is binding on all participants in the lottery. A player who wishes to challenge a determination by the lottery division under this subrule may request a contested case proceeding as described in 701—Chapter 6.

If an invalid ticket is purchased by a player, the only responsibility or liability of the lottery division will be to replace the invalid ticket with an unplayed ticket from the same game or any other game or issue a refund of the sale price.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1104.9(99G) Official end of game. The lottery division will announce the official end of each scratch ticket game and each instaplay ticket game. Retailers may continue to sell tickets for each game up to the cutoff date specified by the lottery.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8921C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to pull-tab ticket general rules

The Revenue Department hereby adopts Chapter 1105, “Pull-Tab Ticket General Rules,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.3, 99G.9, 99G.21 and 99G.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.3, 99G.9, 99G.21 and 99G.31.

Purpose and Summary

This chapter provides generally applicable rules that govern all pull-tab ticket games offered by the Iowa Lottery. Because this chapter falls under the Iowa Lottery Authority’s portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 19 is rescinded. This rulemaking readopts the chapter under the Department as 701—Chapter 1105. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8352C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1105:

CHAPTER 1105

PULL-TAB TICKET GENERAL RULES

701—1105.1(99G) Authorization of pull-tab games. The lottery commission authorizes the lottery to sell pull-tab tickets meeting the criteria of this chapter.

This rule is intended to implement Iowa Code section 99G.9(2).

701—1105.2(99G) Definition. As used in this chapter, the following definition is applicable.

“Pull-tab tickets” means the same as “pull-tab ticket” or “pull-tab” as defined in Iowa Code section 99G.3(15).

This rule is intended to implement Iowa Code sections 99G.3 and 99G.9(2).

701—1105.3(99G) Method of play. A winning ticket is determined by matching, aligning, adding, or locating symbols or numbers under the tabs.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1105.4(99G) Ticket validation requirements.

1105.4(1) Winning ticket requirements. Winning tickets are validated by use of a symbol, number, or color-coded marking. A ticket is not valid if it fails to meet any of the following requirements. The ticket must:

- a. Have been issued by the Iowa lottery division in an authorized manner.
- b. Not be altered, unreadable, reconstructed, or tampered with in any manner.
- c. Not be counterfeit in whole or in part.

- d. Not be stolen or appear on any list of omitted tickets on file with the lottery division.
- e. Be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.
- f. Have the exact play symbols and captions specified in the game specific rules.
- g. Pass all validation tests, including confidential validation tests.

1105.4(2) Lottery responsibility. If a ticket is invalid when sold, it is not eligible to receive any prize and the purchaser's sole remedy is to submit the ticket to the lottery division's main office for a refund of the retail sale price. The lottery has no liability or responsibility for tickets invalidated after the time of sale.

The lottery division may choose to pay a sum equal to the prize on an invalid ticket if the lottery division is able to determine the prize that would have been won on the invalid ticket by use of a symbol, number, color code, or other mechanism. The lottery division's determination that a ticket is valid or invalid, that a ticket was valid when sold and was subsequently invalidated, and whether a sum equal to the prize on an invalid ticket will be paid are binding on all participants in the lottery. A player who wishes to challenge a determination by the lottery division under this subrule may request a contested case proceeding as described in 701—Chapter 6.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1105.5(99G) Prizes. The number and the amount of prizes for any specific pull-tab ticket game will be determined by the lottery division and set forth by the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1105.6(99G) Disclosure of odds. The overall probability of purchasing a winning ticket shall be stated on the lottery division's website and in game literature made available by the lottery division.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1105.7(99G) Claiming prizes.

1105.7(1) Claim period. Prizes must be claimed within 90 days of the announced end of the pull-tab ticket game.

1105.7(2) Prizes claimed at retailer. The game specific rules specify prizes that shall be claimed from the retailer. To claim a prize from a retailer, the winner shall sign the back of the winning ticket and fill out a claim form if required by the game specific rules. If a retailer can verify the claim, the retailer pays the prize. If a retailer cannot verify the claim, the player shall submit the ticket and a completed claim form to the lottery division. If the claim is validated by the lottery division, a draft shall be forwarded to the player in payment of the amount due. If the claim is not validated by the lottery division, the claim shall be denied and the player shall be promptly notified.

1105.7(3) Prizes claimed at a lottery division office. Game specific rules specify prizes that may be claimed only from the lottery division. To claim a prize from the lottery division, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office and the ticket to any lottery office or may mail the ticket and claim form to the Iowa Lottery Division main office as defined in rule 701—2.3(17A). If the claim is validated by the lottery division, the prize or a check, warrant, or draft will be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding and less any applicable setoff withheld under Iowa Code section 99G.41. If the claim is not validated by the lottery division, the claim is denied and the player will be promptly notified.

1105.7(4) Variation by game specific rules. Game specific rules may vary the terms of this rule in respect to the manner in which prizes are claimed or the claim period applicable to any pull-tab game or special event.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1105.8(99G) Disputed claim. If a purchaser and a retailer cannot agree as to whether a prize should be paid on a ticket, the purchaser may submit the ticket to any lottery office. The lottery division's determination as to whether a prize should be awarded is binding on all participants in the

lottery. A player who wishes to challenge a determination by the lottery division under this subrule may request a contested case proceeding as described in 701—Chapter 6.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1105.9(99G) Lottery logo. All pull-tab tickets sold by the lottery division are to be conspicuously marked with the logo of the lottery.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1105.10(99G) End of game. The lottery division will announce the end of any pull-tab ticket game or games.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8922C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to general rules of computerized games

The Revenue Department hereby adopts Chapter 1106, “Computerized Games—General Rules,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.3, 99G.7, 99G.9, 99G.21 and 99G.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.3, 99G.7, 99G.9, 99G.21 and 99G.31.

Purpose and Summary

This chapter provides generally applicable rules that govern all computerized games offered by the Iowa Lottery. Because this chapter falls under the Iowa Lottery Authority’s portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 20 is rescinded. This rulemaking readopts the chapter under the Department as 701—Chapter 1106. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8353C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1106:

CHAPTER 1106
COMPUTERIZED GAMES—GENERAL RULES

701—1106.1(99G) Authorization of computerized lottery games. The lottery commission authorizes the sale of computerized games to be played in compliance with the criteria set forth in this chapter.

This rule is intended to implement Iowa Code section 99G.9(2).

701—1106.2(99G) Computerized lottery definitions. As used in this chapter:

“*Central computer*” means a computer system designated to control, monitor, and communicate with lottery terminals and self-service kiosks and to record the transactions processed by that lottery equipment.

“*Drawing*” means the process used to randomly select winning numbers or entries.

“*Easy pick*” means the random selection by the terminal or self-service kiosk of a valid play for the game that was selected.

“*Game*” means any computerized game conducted by the lottery.

“*Instant ticket vending machine*” means a vending machine or self-service kiosk that dispenses printed paper lottery tickets, with or without a scratch-off area.

“*Online vending machine*” means a vending machine that prints and dispenses tickets or shares that have been determined to be winning or losing tickets or shares by a predetermined pool drawing machine prior to the dispensing of the tickets or shares.

“Play(s)” means the selection of an appropriate number of available variables that constitutes a valid entry in the game or the purchase of a ticket or share with a sequentially generated variable appearing on the face of the ticket or share that constitutes a valid entry in a pool exhaustion game.

“Play slip” means a card used by the player in marking a player’s plays.

“Pool exhaustion game” means a game where a predetermined pool of plays is established.

“Predetermined pool drawing machine” means a computer or other device external to a lottery terminal, instant ticket vending machine, self-service kiosk or online vending machine, that predetermines winning and losing tickets or shares, assigns them to preprogrammed and prepackaged sequential electronic pool files and subsequently utilizes the files in production and distribution of electronic game cards and paper game tickets or shares produced in manufactured packs or through lottery terminals or vending machines.

“Terminal” means a device that is authorized by the lottery division to function with a central computer system for the purpose of issuing, entering, receiving, and processing lottery transactions.

“Vending machine” means a lottery ticket or share dispensing machine either with a mechanical operating mechanism or with computer components that perform accounting functions and activate the ticket or share dispensing mechanism.

“Winning numbers” means the selection of an appropriate number of the variables, randomly selected at each drawing, that are used to determine winning plays contained on a game ticket or share.

This rule is intended to implement Iowa Code sections 99G.3 and 99G.9(2).

701—1106.3(99G) Method of play. If mandated by the game specific rules, a player selects an appropriate number of the available game variables. A player may select each game variable by marking a play slip and submitting the play slip to a retailer, by asking a retailer to manually enter the game variables, or by purchasing an “easy pick” ticket from a retailer. Players may also purchase plays from player-activated terminals by use of a touch screen if player-activated terminals are available. A drawing is held in which an appropriate number of the game variables are drawn on a random basis.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.4(99G) Cancellation by a player. A ticket or share may be canceled by returning the ticket or share to the selling retailer provided that the ticket or share is returned to the retailer the same day it was purchased in time to permit canceling to be fully completed prior to the closing time for that drawing. In the event that a ticket or share is canceled, the player will be entitled to receive from the retailer a refund equal to the purchase price of the ticket or share.

Cancellations will not be allowed in certain games as outlined in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.5(99G) Prizes and odds. The amount of prizes and the odds of winning are set forth in the game specific rules. Game specific rules may allow alternative prize structures.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.6(99G) Payment of annuity jackpot prizes. The lottery division may offer cash prizes, annuitized installment prizes, and prizes with cash or annuity payment options available to the winners. If the jackpot prize or share of the jackpot prize will be paid as an annuity, it will consist of the initial payment followed by such number of yearly installments as may be provided in the game specific rules for the game unless the cash value of the annuity prize attributable to a single play is less than \$100,000. If the cash value of the annuity prize attributable to a single play is under \$100,000, the lottery division may elect to pay the cash value of the prize in one lump-sum prize payment. This rule does not apply to multistate or other multijurisdictional lottery games. Provision for payment of prizes for multistate and other multijurisdictional games shall be outlined in the game specific rules for such games.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.7(99G) Unclaimed prizes. Unclaimed jackpot prizes, shares of the jackpot prize, and other lottery prizes do not increase a prize simultaneously won by any other player in the game. Unclaimed

jackpot shares are added to future jackpot prize pools at times determined by the lottery division. Other unclaimed prizes are added to future prize pools for any lottery game. This rule applies to such games offered in Iowa, except as may otherwise be provided in the game specific rules of a multistate lottery or other multijurisdictional lottery with which the Iowa lottery may be affiliated.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.8(99G) Price. The price of a play will be outlined in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.9(99G) Changes for special promotions. The lottery division may alter the price of the tickets or shares, features, or prizes of the game or drawings to accommodate special promotions. Alterations made by the lottery division shall be contained in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(2), and 99G.21.

701—1106.10(99G) Ticket or share ownership and prize entitlement.

1106.10(1) A ticket or share is owned by its physical possessor until a signature is placed on the back of a ticket in the area designated for signature. When a signature is placed on the back of the ticket or share in the designated space, the person whose signature appears in the designated space is the owner of the ticket or share and is entitled to any prize attributable to the ticket or share.

1106.10(2) Notwithstanding any name or names submitted on a claim form, the lottery division will make payment to the person whose signature appears on the back of the ticket or share in the designated space. If the signatures of more than one person appear in that space, the lottery division will make payment to the person identified on the winner's claim form to receive payment, which designation is made by all persons whose signatures appear on the reverse side of the ticket or share. In the event that all persons whose signatures appear in the appropriate space cannot identify one person to whom payment should be made, the lottery division may withhold payment until the proper payee is determined.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.11(99G) Ticket validation requirements.

1106.11(1) All claims for prizes are subject to validation by the lottery division. A valid ticket or share eligible to receive a prize will satisfy all of the following requirements.

a. The ticket or share was issued by the lottery division directly or through a retailer, via a terminal, in an authorized manner.

b. The information on the ticket or share corresponds precisely with the lottery division's computer record.

c. The ticket or share serial number appears in its entirety and corresponds, using a computer validation file, to the winning play or plays printed on the ticket or share.

d. A ticket or share is printed on a paper stock roll that was validly issued to and used, at the time of the play, by the retailer from which the ticket or share was purchased.

e. The ticket or share is not produced in error, counterfeit in whole or in part, altered, mutilated, unreadable, tampered with in any manner, incomplete, blank or partially blank, miscut, or defective.

f. The ticket or share is not stolen or canceled.

g. The ticket or share passes all additional validation requirements that may be stated in the game specific rules and other security criteria determined by the lottery division.

1106.11(2) In the event that a ticket or share fails to pass all of the validation criteria set forth in this rule, the game specific rules or as determined by the lottery division, the ticket or share is invalid and ineligible for any prize. The lottery division, in its sole discretion, may choose to pay a sum equal to the prize on an invalid ticket or share if the lottery division can determine the prize that would have been won by the ticket or share by use of a symbol, code number, color code, or other mechanism. The lottery division's decisions as to whether a ticket or share is invalid and whether a sum equal to the prize on an invalid ticket or share will be paid are binding on all participants in the lottery. If the lottery division determines that a ticket or share is not eligible to receive a prize or a sum equivalent to the prize amount,

the lottery division may replace the invalid ticket or share with a ticket or share of equivalent sale price from any current lottery game or refund the purchase price of the ticket or share. Replacement of the ticket or share, or refund of the purchase price, are the claimant's sole and exclusive remedy. A player who wishes to challenge a determination by the lottery division under this subrule may request a contested case proceeding as described in 701—Chapter 6.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.12(99G) Claim period. All prizes for games not associated with another state's lottery must be claimed as directed within 90 calendar days of the drawing in which the prize was won unless otherwise specified in the game specific rules. All prizes for games associated with another state's lottery are to be claimed as directed within the game specific rules. For purposes of determining the claim period, the drawing date is not counted. If a prize is claimed by mail, the lottery division must actually receive the ticket or share and claim form within the claim period. Any prize not properly claimed within the specified period is forfeited. The claim period for a game may be altered by the lottery division in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.13(99G) Manner of claiming prizes.

1106.13(1) To receive payment for a prize or prizes on any single game ticket or share that total \$600 or less, the winner may take the signed ticket or share directly to any lottery retailer authorized to sell and validate the game, or to any lottery division office, or mail the signed ticket or share, along with a completed claim form, to the Iowa Lottery Division's main office as defined in rule 701—2.3(17A).

If there is any alteration, mutilation, tear, or other ambiguity on the ticket or share, the retailer is not authorized to make direct payment of a prize and a claim form, and the ticket or share is to be submitted to the lottery division.

1106.13(2) To receive payment for a prize or prizes on any single game ticket or share that total more than \$600, the winner may submit the signed ticket or share and a completed claim form directly to any lottery division office. The winner may also mail the signed ticket or share and claim form to the Iowa Lottery Division's main office as defined in rule 701—2.3(17A).

1106.13(3) Claim forms are available at all computerized lottery division retailers and lottery offices. The lottery division or, at the lottery division's direction, a lottery retailer may require the person claiming a prize of any amount to fill out a claim form.

1106.13(4) If a prize is claimed by mail, the ticket or share and the claim form must actually be received by the lottery division within the claim period.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.14(99G) Presentation of ticket. No prize payments will be made unless the player submits a valid, uncanceled ticket or share. A play slip has no pecuniary or prize value and is not evidence of ticket purchase or of numbers selected.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.15(99G) One prize per play. The holder of a winning ticket or share may win only one prize per play in connection with the winning numbers drawn and is entitled only to the prize won by those numbers in the highest matching prize category.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.16(99G) Corrections. The lottery division reserves the right to correct and adjust, up or down, the amount of any prize or prizes, whether all or part of the prize or prizes has been paid, if it is determined that one or more players are entitled to a portion of a prize and were not included in the prize calculations or were included in the prize calculations by mistake.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.17(99G) Risk of error. The placing of plays is done at the player's own risk. It is solely the player's responsibility to verify the accuracy of plays and all other data printed on the ticket. In the event of any error, the player's only remedy is cancellation of the ticket or share according to the procedure specified in this chapter. The lottery division and lottery retailers have no other responsibility for tickets or shares printed in error.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1106.18(99G) Multidraw plays and advance plays. Multidraw plays and advance plays may be available.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.19(99G) Drawings. Drawings will be held as specified in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.20(99G) Cancellation or delay. The lottery division reserves the right to cancel or delay drawings or sales of tickets or shares in the event of technical difficulties, and on days of special importance or on days the drawings would be impractical or inappropriate.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.21(99G) Pool exhaustion game—method of play.

1106.21(1) Players may purchase tickets or shares for a specific game. Each ticket or share sold for a pool exhaustion game will be generated separately. Tickets or shares will be sold against the pool until the pool of plays is exhausted or until the game ends in accordance with the game specific rules.

1106.21(2) Each ticket or share will bear a sequentially generated variable on the face of the ticket or share.

1106.21(3) Drawings for the prizes for a specific game will randomly select a winner or winners from the tickets or shares actually sold. The drawing method is described in the game specific rules.

1106.21(4) Prizes are awarded as specified in the game specific rules.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1106.22(99G) Prize insurance fund.

1106.22(1) The lottery may provide that up to 10 percent of the funds designated for the jackpot prize level in the prize structure of the game specific rules for a game or that any prize funding not awarded by the conclusion of the relevant claim period for a fixed-prize game will be transferred to a prize insurance fund.

1106.22(2) The prize insurance fund may be used for any of the following purposes:

a. To pay prizes for any online game prize obligation if the amount available to fund an online game prize is insufficient;

b. To support a special promotion to retire an online game (e.g., a television show or a second-chance drawing);

c. To transfer amounts to a successor game to pay prize obligations for a different online game.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

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[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8923C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rulemaking related to drawings and contests**

The Revenue Department hereby adopts Chapter 1107, “Drawings and Contests,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 99G.9, 99G.21 and 99G.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 99G.9, 99G.21 and 99G.31.

Purpose and Summary

This chapter provides generally applicable rules that govern all lottery drawings and contests. Because this chapter falls under the Iowa Lottery Authority’s portion of the Iowa Administrative Code, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 531—Chapter 21 is rescinded. This rulemaking readopts the chapter under the Department as 701—Chapter 1107. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8354C**. Two public hearings were held on the following date(s):

- December 4, 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 Iowa Lottery Commission and the Department on December 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 1107:

CHAPTER 1107
DRAWINGS AND CONTESTS

701—1107.1(99G) Authorization of drawings and contests. The lottery commission authorizes drawings and contests that meet the criteria set forth in this chapter.

This rule is intended to implement Iowa Code section 99G.9(2).

701—1107.2(99G) Definitions.

“*Contest*” means a lottery event that may involve nonwinning tickets in which entries are selected as winners and prizes are valued at a total of \$5,000 or less.

“*Drawing*” or “*second-chance drawing*” means a lottery event involving a random selection of an entry or entries for a prize in which entrants may either use a nonwinning Iowa lottery ticket as an entry or, at the lottery division’s discretion, may enter the drawing using points earned from entering tickets through the Internet or an entry through an alternative method for which a purchase is not necessary.

“*Nonwinning ticket*” means a ticket that did not win in the original game for which it was printed.

“*Presentation*” means entering the ticket into a drawing or contest as permitted by the rules of the drawing or the description of the contest.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1107.3(99G) Price for drawings or contests. There is no cost to enter a drawing or contest beyond the original ticket price already paid. At the lottery division’s discretion, certain drawings may be designated as accepting entries with a designated number of points earned by entry of nonwinning tickets through the lottery division’s customer loyalty program or by another lottery-approved method.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1107.4(99G) Method of play. Contest or drawing winners may be determined from a computer-generated list of all the entries submitted during the eligibility period or by another method approved by the lottery division. The secure drawing system generates a list of winning entry numbers based on the prize levels. Alternates are drawn as determined by the lottery division. Other methods of choosing a winning entry may be determined by the lottery division and, if utilized, will be set forth in the specific drawing rules or contest description. The lottery division will post written contest rules informally at any contest event.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1107.5(99G) Prizes.

1107.5(1) The number and amount of prizes for a drawing or contest shall be determined by the lottery division and set forth in the specific drawing rules or contest description.

1107.5(2) At the lottery division's discretion, a drawing or contest may include a special prize event. The number of prizes, the amount of each prize, the dates and times of the contests or drawings, as well as the procedures for conducting elimination drawings or prize events, are determined by the lottery division and set forth in the specific drawing rules or contest description. Finalists for prize events are selected in the manner stated in the specific drawing rules or contest description.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1107.6(99G) Disclosure of odds. Because odds will vary based on the number of entrants in each contest or drawing, odds are not posted.

This rule is intended to implement Iowa Code sections 99G.9(2) and 99G.21.

701—1107.7(99G) Claiming prizes. The specific drawing rules or contest description will set forth the manner in which prizes won should be claimed. If an individual prize is greater than \$600 or at the lottery division's discretion, a player will fill out a claim form.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1107.8(99G) Entry validation requirements. A valid entry is a legally acquired nonwinning lottery ticket identified as an entry for the particular drawing or contest. At its discretion, the lottery division may include legally obtained winning and nonwinning Iowa lottery online tickets in drawings and contests.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1107.9(99G) Owner of a ticket. The lottery division pays prizes in an Internet-based drawing or contest only to persons who present the selected tickets by entering them into the drawing through the online entry form or other entry mechanism. Players should sign the original ticket to prevent entry of the ticket by another party into the drawings or contests. The signature on the ticket indicates the owner of the ticket. If no signature is present on the ticket, the owner of the ticket is the possessor of the ticket. If there is a question as to the ownership of a ticket, the lottery division will make a determination as to whether and to whom a prize will be awarded, and the lottery division's determination is binding on all participants in the drawing or contest. A player who wishes to challenge a determination by the lottery division under this rule may request a contested case proceeding as described in 701—Chapter 6.

This rule is intended to implement Iowa Code sections 99G.9(2), 99G.21, and 99G.31.

701—1107.10(99G) Official end of drawing or contest period. The lottery division announces the end of any drawing or contest period.

This rule is intended to implement Iowa Code sections 99G.9(2), and 99G.21.

[Filed 1/29/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8924C

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,
IOWA[751]**

Adopted and Filed

Rulemaking related to description of organization and procedure for rulemaking

The Iowa Telecommunications and Technology Commission (ITTC) hereby amends Chapter 1, "Description of Organization"; rescinds Chapter 18, "Procedure for Rule Making"; and adopts new Chapter 18, "Procedure for Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 8D.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8D.3 and 8D.4.

Purpose and Summary

This rulemaking includes revisions to administrative rules based on the requirements of 2024 Iowa Acts, Senate File 2385, which moves rulemaking authority from the ITTC to the Iowa Communications Network (ICN) Executive Director. This rulemaking implements this change and makes corrective amendments regarding the ICN's organizational structure and description.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8661C**. A public hearing was held on the following date(s):

- January 16, 2025

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the ICN Executive Director on January 29, 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 ICN-ITTC for a waiver of the discretionary provisions, if any, pursuant to 751—Chapter 16.

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend rule 751—1.2(17A,8D) as follows:

751—1.2(17A,8D) Organization. The commission's structure consists of five commissioners and the state auditor and the chief information officer as ~~an~~ ex officio ~~member~~ members of the commission. The commission has the sole authority to manage, develop, operate and ensure compatibility of the state communications network. The network is supervised by the commission and operated by the executive

director of the network or the ~~commission's~~ executive director's designee. The ~~commission~~ executive director has ~~rule-making~~ rulemaking authority.

ITEM 2. Rescind rule 751—1.5(17A,8D) and adopt the following **new** rule in lieu thereof:

751—1.5(17A,8D) Administrative elements.

1.5(1) *Executive director.* The executive director or the executive director's designee administers the programs and the services of the commission in compliance with the Iowa Code and the rules adopted by the executive director.

1.5(2) *Administrative elements.* In order to carry out the functions of the commission, the agency consists of the divisions as established by the executive director and bureaus within each division as deemed necessary to fulfill the functions of the agency. Additionally, the executive director may from time to time reorganize the agency in order to more efficiently and effectively carry out the functions of the commission. The major functions of the agency include but are not limited to:

- a. Networking and engineering, including network operations, engineering, and project management. The bureau is responsible for all operational aspects of the fiberoptic network.
- b. Facilities, including outside plant and technical assistance.
- c. Financial management, including budgeting, accounts receivable and payable, and internal auditing.
- d. Procurement and contracting.
- e. Business services, including customer sales and customer relations.

ITEM 3. Amend subrule 1.6(1) as follows:

1.6(1) *Main office.* The main office is located in the Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319. The telephone number is ~~(515)725-4692~~ 515.725.4692. The toll-free number is ~~1-877-426-4692~~ 1.877.426.4692. The fax number is ~~(515)725-4727~~ 515.725.4727. The ~~E-mail~~ email address is ICN.info@iowa.gov. The home page Internet address ~~on the World Wide Web~~ is ~~http://www.icn.state.ia.us~~ icn.iowa.gov.

ITEM 4. Amend subrule 1.7(2) as follows:

1.7(2) *Emergency incident reports.* The 24-hour emergency telephone number for reporting cable cuts, system failures or other incidents is ~~1-800-572-3940~~, 1.800.572.3940 or ~~(515)323-4400~~ 515.725.4400.

ITEM 5. Amend **751—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3(1) "*a*," 8D.1, 8D.3(3) "*b*," 8D.4, 8D.5 and 8D.6.

ITEM 6. Rescind 751—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18

PROCEDURE FOR RULEMAKING

The executive director adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website.

751—18.3(17A) Public rulemaking docket.

18.3(2) *Anticipated rulemaking.* In lieu of the words "(commission, board, council, director)", insert "executive director".

751—18.4(17A) Notice of proposed rulemaking.

18.4(3) *Copies of notices.* In lieu of the words "(specify time period)", insert "six months".

751—18.5(17A) Public participation.

18.5(1) *Written comments.* In lieu of the words "(identify office and address)", insert "ICN Executive Director, 400 East 14th Street, Des Moines, Iowa 50319-9000".

18.5(5) Accessibility. In lieu of the words “(designate office and telephone number)”, insert “ICN executive director at 515.725.4692”.

751—18.6(17A) Regulatory analysis.

18.6(2) Mailing list. In lieu of the words “(designate office)”, insert “ICN executive director”.

751—18.10(17A) Exemptions from public rulemaking procedures.

18.10(2) This subrule is not adopted.

751—18.11(17A) Concise statement of reasons.

18.11(1) General. In lieu of the words “(specify the office and address)”, insert “ICN Executive Director, 400 East 14th Street, Des Moines, Iowa 50319-9000”.

751—18.13(17A) Agency rulemaking record.

18.13(2) Contents. In lieu of the words “(agency head)”, insert “executive director”.

These rules are intended to implement Iowa Code chapters 8D and 17A.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8935C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to farm-to-market review board

The Transportation Department hereby rescinds Chapter 101, “Farm-to-Market Review Board,” 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 306.6A and 307.12(1)“j.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 306.6 and 306.6A.

Purpose and Summary

This rulemaking repromulgates Chapter 101 in compliance with Executive Order 10. Chapter 101 formalizes the process by which the Farm-to-Market Review Board, created by Iowa Code section 306.6, will administer its duties, including the designation of parts of the secondary road network as the farm-to-market road system.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8332C**. Two public hearings were held on the following date(s):

- December 9, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 101 and adopt the following new chapter in lieu thereof:

CHAPTER 101

FARM-TO-MARKET REVIEW BOARD

761—101.1(306) Scope. This chapter formalizes the process by which the farm-to-market review board will administer its duties. The board reviews criteria for determining eligibility for inclusion of additional roads into the farm-to-market road system in accordance with Iowa Code sections 306.6 and 306.6A.

761—101.2(306) Definitions.

“Area service roads,” “local roads,” or “local road system” means those secondary roads that are not a part of the farm-to-market road system.

“Board” means the farm-to-market review board.

“Executive board” means the Iowa county engineers association executive board.

“Farm-to-market extensions” means extensions of the farm-to-market road system within municipalities, state parks, state institutions, other state lands, and county parks and conservation areas. The mileage of these extensions of the system is to be included in the total mileage of the farm-to-market road system.

“Farm-to-market roads” or “farm-to-market road system” means those county jurisdiction intracounty and intercounty roads that serve principal traffic generating areas and connect such areas to other farm-to-market roads and primary roads. The farm-to-market road system includes those county jurisdiction roads providing service for short-distance intracounty and intercounty traffic or providing connections between farm-to-market and area service roads and includes those secondary roads that are federal aid eligible. The farm-to-market road system is not to exceed 35,000 miles.

“President” means the president of the Iowa county engineers association.

761—101.3(306) Composition and membership of the board.

101.3(1) The board is composed of 12 county engineers selected by the Iowa county engineers association. Two members are selected from each district to serve staggered terms. After the first complete term rotation as shown below, the members serve six-year terms. Rotations should be staggered so that no more than one-sixth of the membership is rotated off the board in any one year. The rotation of board members should further provide that two members from one district will not be rotated off the board in the same year, and that their rotations will be varied by three years. Board rotation should be as follows and should be extended in future years in the same pattern:

Year	Rotation	
2021	District 1 Representative A	District 4 Representative A
2022	District 2 Representative A	District 5 Representative A
2023	District 3 Representative A	District 6 Representative A
2024	District 1 Representative B	District 4 Representative B
2025	District 2 Representative B	District 5 Representative B
2026	District 3 Representative B	District 6 Representative B

101.3(2) Members are nominated by their districts and approved by the executive board. A county engineer may serve multiple, consecutive terms if so nominated by the county engineer’s district. If a county engineer is unable to complete a term for any reason, the president selects another county engineer within the district to serve the balance of the term.

101.3(3) The board selects from its membership a chair and a vice-chair to serve one-year terms. The chair serves at the pleasure of the board and may be elected to multiple terms as deemed appropriate by the board. The vice-chair presides at a meeting in the absence of the chair.

761—101.4(306) Collection of system modification requests and frequency of meetings.

101.4(1) The department of transportation will collect applications for modifications to the farm-to-market road system. The board chair schedules meetings of the board to review accumulated applications for farm-to-market road system modifications. Applications should be filed no less than 21 calendar days prior to each scheduled board meeting.

101.4(2) The board follows the provisions of Iowa Code chapter 21 with regard to open meetings. The chair posts a meeting agenda on the Iowa county engineers association service bureau website and sends copies of the agenda to all counties.

101.4(3) Minutes of each meeting are kept; the chair is responsible for the minutes. Meetings may be recorded to facilitate the preparation of meeting minutes, but any recordings made are not to be retained after the minutes have been completed.

761—101.5(306) Procedure for requesting modifications to the farm-to-market road system. To apply for a modification to the farm-to-market road system, a county files an application through the department of transportation.

101.5(1) The application includes the following:

a. A copy of a resolution of the county board of supervisors requesting the modification to the existing farm-to-market road system. Farm-to-market modifications may include proposed roads, redesignation of area service roads, or transfers of jurisdiction.

b. A report of the county engineer explaining and justifying the addition of new mileage to the farm-to-market road system or the change in the route or farm-to-market classification proposed by the county.

101.5(2) In the case of intercounty routes, joint applications may be filed. Resolutions are necessary of each county.

761—101.6(306) Voting and approval of requested modifications. Each member is a voting member and is eligible to vote at every meeting at which that member is in attendance. Attendance may include members being present at the meeting through a conference telephone call, Iowa communications network connection, or other electronic means deemed appropriate by the chair.

101.6(1) Determination of a quorum. A minimum of eight board members is necessary for a quorum. If a quorum is not present at a meeting, the meeting is rescheduled.

101.6(2) Number of votes needed to approve or deny a modification. For a requested modification to the farm-to-market road system to be approved, it needs to receive a minimum of seven affirmative votes; in other words, a majority of the entire board. A motion to deny a requested modification needs to only receive six votes for the denial to be approved.

761—101.7(306) Report of board decision to applicant county. Within 30 calendar days after a board meeting, the chair sends a formal response to each county whose request was acted upon by the board at the meeting. The response apprises each applicant of the decision of the board. If the application is denied, the board provides an explanation of the reasons for the denial.

761—101.8(306) Reapplication for modification. A county may reapply for a modification to the farm-to-market road system if its initial request is denied. The county again follows all provisions for requesting a modification and should be prepared to present additional information in support of the requested change. Any requested system modification that receives two denials is not to be resubmitted for consideration for a minimum of three years.

761—101.9(306) Judicial review. Any county that is aggrieved or adversely affected by a decision of the board may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

761—101.10(306) Adoption and modification of rules. The chair directs the board to review these rules annually. Board members may recommend changes to these rules.

761—101.11(306) Severability clause. If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication will not affect the validity of these rules as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

These rules are intended to implement Iowa Code sections 306.6 and 306.6A.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8936C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to county and city bridge construction funds

The Transportation Department hereby rescinds Chapter 160, “County and City Bridge Construction Funds,” 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 307.12(1)“j” and 312.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 312.2.

Purpose and Summary

This rulemaking repromulgates Chapter 160 in compliance with Executive Order 10. Chapter 160 implements the county and city bridge construction funding programs in accordance with Iowa Code section 312.2.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8333C**. Two public hearings were held on the following date(s):

- December 11, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 160 and adopt the following **new** chapter in lieu thereof:

SPECIAL HIGHWAY PROGRAMS

CHAPTER 160

COUNTY AND CITY BRIDGE CONSTRUCTION FUNDS

761—160.1(312) Purpose. The purpose of these rules is to establish requirements for the counties' and cities' bridge construction funds in accordance with Iowa Code section 312.2.

761—160.2(312) Contact information. Questions regarding this chapter may be directed to the Local Systems Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—160.3(312) Administration of funds. The department allocates the funds to counties and cities for bridge construction and reconstruction projects based on need, and the funds will be administered by the local systems bureau.

160.3(1) The county bridge construction fund is to be allocated for projects on secondary roads as determined by the department after consultation with county officials through their representative organizations.

160.3(2) The city bridge construction fund is to be allocated for projects on city streets as determined by the department after consultation with city officials through their representative organizations.

160.3(3) To be considered for funding, a proposed project needs to be on the appropriate eligibility list maintained by the department.

a. The department maintains a county bridge construction fund eligibility list and a city bridge construction fund eligibility list.

b. A local jurisdiction may propose a project by submitting a project application to the local systems bureau.

c. Unless otherwise agreed to by the city and county, a proposed project for a bridge located on the line dividing incorporated and unincorporated areas is to be placed on the eligibility list that corresponds to the jurisdiction submitting the application.

160.3(4) Prior to allocation, the department ranks the proposed projects within each eligibility list by a priority system based on needs, as developed under subrules 160.3(1) and 160.3(2). The priority system will include various items, such as but not limited to structural condition, traffic, and detour length. For each list, the department allocates funds, within the limits of funding availability, to those projects ranked as having the greatest needs.

These rules are intended to implement Iowa Code section 312.2.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8937C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to personalized and special registration plates

The Transportation Department hereby rescinds Chapter 401, “Special Registration Plates,” and adopts a new Chapter 401, “Personalized and Special Registration Plates,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)“j,” 321.34(1), 321.34(13), 321.34(14) and 321.166(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 321L and sections 321.20, 321.34, 321.40, 321.105 and 321.166 and 2024 Iowa Acts, House File 2579.

Purpose and Summary

This rulemaking repromulgates Chapter 401 in compliance with Executive Order 10. This chapter implements Iowa Code section 321.34, which authorizes the issuance of certain specialty license plates. The chapter does the following:

- Outlines how individuals seeking certain specialty license plates that have specific eligibility requirements under Iowa Code section 321.34 can obtain the license plates. This ensures that special license plates are only issued to individuals who are eligible for the plates;
- Provides clarity about which specialty license plates can be personalized and which cannot;
- Creates requirements that must be met to issue a nonprofit organizational decal for placement on a decal license plate; and
- Outlines procedures regarding the surrender and reassignment of special license plates and establishes the appeal process if a specialty plate is revoked in order to prevent fraud by ensuring unneeded plates do not remain in circulation and to ensure members of the public have clear guidelines to follow so they are not subject to enforcement action regarding improper use of license plates.

The prior chapter had numerous statutory redundancies, inconsistent verbiage, and several unnecessary restrictions that have been corrected. Rather than having a separate rule for each type of special registration plate with specific requirements separated by plate type as in the prior chapter, the chapter is streamlined by combining like content and eliminating redundant requirements.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8334C**. Two public hearings were held on the following date(s):

- December 4, 2024

No one attended the public hearings.

The Department received a public comment from the Story County Treasurer's Office. The commenter requested that the Department revise subrule 401.2(1) to add the term "random" before "letter-number" to describe how regular registration plates are issued to individual customers and subrule 401.3(1) to indicate seven is the maximum number of characters on a personalized plate. The Department agreed with the commenter's request to add the term "random" in subrule 401.2(1) because that accurately describes how regular registration plates are issued. However, the Department did not agree with the commenter's request to amend subrule 401.3(1) because the proposed addition would be duplicative of Iowa Code section 321.34(5). Also, a reference to 2024 Iowa Acts, House File 2579, has been removed since the amendments in the House File have been codified in the 2025 Iowa Code.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 401 and adopt the following **new** chapter in lieu thereof:

CHAPTER 401
PERSONALIZED AND SPECIAL REGISTRATION PLATES

761—401.1(307,321) Definitions.

“Current firefighter” means a member of a paid or volunteer fire department who has at least one year of service and is in good standing, as determined by the fire chief.

“Retired firefighter” means a former member of a paid or volunteer fire department who has a minimum of ten years' total service in good standing, as determined by the fire chief.

“Service director” means a service director as defined in rule 641—132.1(147A).

“Special registration plates” means registration plates issued under Iowa Code section 321.34 or 321.105 other than regular or sample plates.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.34 and 321.105.

761—401.2(307,321,321L) Application and requirements for certain special registration plates.

401.2(1) *Plates available without application.* Except for the special registration plates listed in subrules 401.2(2) and 401.2(3) and collegiate plates issued under Iowa Code section 321.34(7) and 321.34(7A), all special registration plates authorized under Iowa Code section 321.34 are available as random letter-number designated plates at the county treasurer's office of the county of registration without separate application.

401.2(2) *Special registration plates requiring separate application.* The following special registration plates require that a separate application with any applicable supporting documentation be submitted to the department on Form 411260. Applications are to be submitted by mail to Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; by email to dot.plates@iowadot.us, or electronically at www.iowadot.gov/mvd/vehicleregistration/vehicleregistration/plates/plates. Form 411260 may be obtained by contacting the motor vehicle division using the information in this subrule, by phone at 515.237.3110, by fax at 515.237.3056, or at any county treasurer's office.

a. Amateur radio call letter plate applications under Iowa Code section 321.34(3) require the number of the amateur radio license issued by the Federal Communications Commission.

b. Medal of honor plate applications under Iowa Code section 321.34(8) require an official government document verifying the applicant's receipt of the medal of honor.

c. Ex-prisoner of war plate applications under Iowa Code section 321.34(8A) require a copy of an official government document verifying that the applicant was a prisoner of war or a signed statement from a person who has knowledge that the person was a prisoner of war.

d. Firefighter plates issued under Iowa Code section 321.34(10) require a certification signed by the fire chief of the paid or volunteer fire department confirming that the applicant is a current or retired firefighter member of the fire department. Renewal for a current firefighter requires a new certification

be submitted to the county treasurer's office. Renewal for a retired firefighter does not require a new certification.

e. Emergency medical services plate applications under Iowa Code section 321.34(10A) require a signature from the applicant's service director certifying that the applicant is a current member of a paid or volunteer emergency medical services agency.

f. Legion of Merit plate applications under Iowa Code section 321.34(15) require a copy of the official government document verifying receipt of the Legion of Merit. An eligible applicant who wishes to receive such plates for more than one vehicle is subject to the regular annual registration fee for each additional vehicle.

g. National guard plate applications under Iowa Code section 321.31(16) require certification from the applicant's unit commander on unit letterhead confirming the applicant's eligibility.

h. Pearl Harbor plate applications under Iowa Code section 321.34(17) require a copy of an official government document verifying that the applicant was stationed at Pearl Harbor, Hawaii, as a member of the armed forces on December 7, 1941.

i. Purple heart, silver star, and bronze star plate applications under Iowa Code sections 321.34(18) and 321.34(20) require an official military order, the report of discharge, or DD Form 214 confirming the applicant's receipt of the award.

j. Gold star plate applications under Iowa Code section 321.34(24) require written approval from the Iowa department of veterans affairs confirming the lineage of applicant to the deceased veteran and documentation that the veteran is deceased due to military service.

k. U.S. armed forces retired special plates under Iowa Code section 321.34(19) require documentation that the U.S. armed forces recognizes the person as retired from the U.S. armed forces, in the form of the official military order confirming the applicant's retirement, report of discharge, or DD Form 214.

l. Distinguished service, navy, or air force cross plates under Iowa Code section 321.34(20A) require an official military order, the report of discharge, or DD Form 214 confirming the applicant's receipt of the award.

m. Soldier's, navy and marine corps, or airman's medal plates under Iowa Code section 321.34(20B) require an official military order, the report of discharge, or DD Form 214 confirming the applicant's receipt of the award.

n. U.S. veteran plate applications under Iowa Code section 321.34(27) require a certification from the Iowa department of veterans affairs that the applicant qualifies as an honorably discharged veteran.

o. Disabled veteran plate applications under Iowa Code section 321.166(6) require a certification from the U.S. Department of Veterans Affairs that the United States government has provided or has assisted in providing the motor vehicle to the disabled veteran. A separate certification may be required for any subsequently acquired vehicle or when the veteran moves to another county.

p. Notwithstanding any provision of this rule to the contrary, an applicant seeking any military or armed forces special registration plate may submit alternate documentation if approved by the Iowa office of the adjutant general or the Iowa department of veterans affairs.

401.2(3) *Persons with disabilities special registration plates.* Plates issued under Iowa Code section 321.34(14) are available from the department or county treasurer and require the application and statement of disability prescribed by 761—subrule 411.3(2), including certification that the applicant meets the eligibility requirements of Iowa Code section 321.34(14). If applicable, the application also requires certification of residency on Form 411120. In lieu of the statement of disability, a veteran may submit a certification of disability from the U.S. Department of Veteran's Affairs.

401.2(4) *Plates with minimum ordering requirements.* Applicants seeking a combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, or civil war sesquicentennial plate under Iowa Code section 321.34(20C) or 321.34(25) are to apply to the department.

a. Applications for combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, or combat medical badge plates require a copy of an official government document verifying that the applicant received such award.

b. Applications for civil war sesquicentennial plates do not require additional documentation.

401.2(5) Fees due. The applicable statutory issuance fee for each special registration plate under Iowa Code section 321.34 is due at the time of application.

401.2(6) Vehicles eligible. Unless otherwise specified in Iowa Code section 321.34, special registration plates are available for motor vehicles subject to registration under Iowa Code section 321.109(1), autocycles, motor trucks, motor homes, multipurpose vehicles, motorcycles, trailers, and travel trailers.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.34 and 321.105 and chapter 321L.

761—401.3(321) Character limits. In addition to the character requirements of Iowa Code sections 321.34(5), 321.34(12), and 321.166, the following provisions apply to all personalized and special registration plates:

401.3(1) Plates will be issued with a minimum of two characters.

401.3(2) Plates with a processed emblem, and plates issued under Iowa Code section 321.34(13), are limited to five characters whether personalized or issued as a letter-number designated plate.

This rule is intended to implement Iowa Code sections 321.34 and 321.166.

761—401.4(17A,321) Nonprofit organization decal approval and issuance.

401.4(1) Application. An organization meeting the criteria of Iowa Code section 321.34(13) “a” and 321.34(13) “b” must apply to the department for approval of the decal design and issuance on Form 411346. The department is to notify the organization of approval or denial of the proposed decal within 60 days of application receipt.

401.4(2) Decal design. In addition to satisfying the requirements of Iowa Code section 321.34(13) “d,” an approved decal will be limited to dimensions of 2.875” in width and 3” in height and designed to be placed in the space reserved for the decal on the nonprofit organizational decal plate. The department may consult with other organizations, law enforcement authorities, and the public regarding approval or denial of the decal design.

401.4(3) Revocation. If, following approval of the decal, the department determines a false application was submitted or that the decal or the issuing organization is in violation of Iowa Code section 321.34(13) or this chapter, the department shall revoke the organization’s approval to issue the decal.

401.4(4) Notice. If the department denies or revokes the decal design, the department will send notice of the denial or revocation by certified mail to the organization at the address listed on the application. The revocation or denial takes effect 20 days from the date of mailing. The organization may contest the decision in accordance with 761—Chapter 13. The request will be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice.

This rule is intended to implement Iowa Code chapter 17A and section 321.34.

761—401.5(307,321) Personalized plates.

401.5(1) Personalized plates under Iowa Code section 321.34(5) are available to order online through the department’s website at www.iowadot.gov/mvd/personalizedplates/home.aspx. An applicant unable to order online may contact the motor vehicle division at the address or phone number listed in subrule 401.2(2) to apply in an alternate manner.

401.5(2) An application for a personalized plate will be rejected if the requested combination of characters is issued to another vehicle or is reserved for any other vehicle plate series under Iowa Code chapter 321.

401.5(3) The department shall not issue any combination of characters it determines is:

- a.* Denoting a government agency;
- b.* Sexual in connotation;
- c.* A term of vulgarity, contempt, prejudice, hostility, insult, or racial or ethnic degradation;
- d.* Recognized as a swear word;
- e.* A reference to an illegal substance;

- f.* A reference to a criminal act;
- g.* Offensive; or
- h.* A foreign word falling into any of these categories.

401.5(4) Personalized plates are not available for the plates listed in paragraphs 401.2(2) “a” through “c,” “f,” and “o.”

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.34, and 321.166.

761—401.6(307,321) Issuance of special registration plates.

401.6(1) Only a person who is an owner or lessee of a vehicle with current registration is eligible to receive special registration plates. The registration plates previously issued to the vehicle are to be surrendered to the county treasurer prior to issuance of new special registration plates.

401.6(2) Special registration plate fees are not eligible to be prorated.

401.6(3) Special registration plates are void if they are not assigned to a vehicle within 90 days after the date the county receives the plates, or if they are replacement plates issued as part of a periodic replacement cycle, within 90 days after the last day of the month of expiration of registration. If the plates are not picked up within the 90-day period, the plates are to be destroyed and a new application and a new issuance fee are to be submitted.

401.6(4) When an applicant provides proof to the department that a special registration plate has been lost or damaged, the applicant may obtain replacement plates containing the applicant’s previous plate number upon payment of the statutory fee.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.26, 321.34 and 321.42.

761—401.7(307,321) Renewal.

401.7(1) Registration plates under this chapter are to be renewed at the office of the applicable county treasurer. All applicable annual statutory fees for the special registration plate or personalized plate are due at the same time the regular annual registration fee is due and are in addition to the regular annual registration fee.

401.7(2) If renewal of a personalized registration plate is delinquent beyond the period authorized under Iowa Code section 321.40(1), a new application and new statutory issuance fee(s) are required. In addition, the department may issue the combination of characters on personalized plates to another applicant.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.20, 321.34, 321.40 and 321.105.

761—401.8(307,321) Reassignment or surrender of special registration plates.

401.8(1) *Reassignment.*

a. A vehicle owner or lessee who has special registration plates assigned to a currently registered vehicle may request that the plates or the plate character sequence be reassigned to another currently registered vehicle owned or leased by that person or owned or leased by another person, provided the assignee is eligible for the special registration plates.

b. To reassign plates to a vehicle owned or leased by another person, a written request for reassignment signed by both the assignor and assignee must be submitted to the county treasurer of the assignee’s county of residence. The special registration plates will be issued to the assignee by the county treasurer in exchange for the registration plates previously issued.

401.8(2) *Qualifying events requiring surrender or reassignment.* Special registration plates issued to a person are to be surrendered to the county treasurer in exchange for regular registration plates within 30 days of a qualifying event. Alternatively, a person may request reassignment of the plates within 30 days of a qualifying event. A qualifying event includes the following:

- a.* The person is no longer eligible for the plates.
- b.* The person has sold or transferred the vehicle to another person.
- c.* The person was the lessee of the vehicle and the lease was terminated.
- d.* The person died, except to the extent that Iowa Code section 321.34 permits another person to retain such plates on the vehicle.

401.8(3) Fees due. If the vehicle was exempt from the payment of regular registration fees due to the type of special registration plates issued, the vehicle becomes subject to the payment of regular registration fees on the first day of the month following the date of the event that made the person ineligible or the person's death. The regular registration fees will be prorated for the remaining unexpired months of the registration year.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.34 and 321.40.

761—401.9(17A,307,321) Revocation of plates—appeal.

401.9(1) A special registration plate or personalized plate shall be revoked if the department determines it has been issued in conflict with the statutes or rules governing the plate's issuance. The department shall send the notice of revocation to a person's mailing address by certified mail, and the revocation takes effect 20 days from the date of mailing. Revoked plates must be surrendered to the county treasurer within ten days of the date of receipt of the notice.

401.9(2) The person may contest the decision of the department in accordance with 761—Chapter 13. The request will be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice.

This rule is intended to implement Iowa Code chapter 17A and sections 307.12(1) "j" and 321.34.

761—401.10(307,321) Refund of fees. No refund of fees for special or personalized registration plates shall be allowed unless the plates were issued in error or in conflict with the statutes or rules governing their issuance.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 321.34.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8938C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to authorized emergency vehicle certificate of designation

The Transportation Department hereby rescinds Chapter 451, "Emergency Vehicle Certificate," and adopts a new Chapter 451, "Authorized Emergency Vehicle Certificate of Designation," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1) "j," 321.16 and 321.451.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1) "j," 321.2, 321.3, 321.13, 321.16, 321.231, 321.231A, 321.324A and 321.451.

Purpose and Summary

This rulemaking repromulgates Chapter 451 in compliance with Executive Order 10. Chapter 451 implements Iowa Code section 321.451 by outlining the procedures for certain persons to obtain a certificate of designation as an authorized emergency vehicle for certain persons' privately owned vehicles. An authorized emergency vehicle certificate allows its holder, for example, a fire chief or

sheriff, to operate the holder's privately owned vehicle to the scene of an emergency, in parades or events, or to display certain flashing lights.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8335C**. Two public hearings were held on the following date(s):

- December 4, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 451 and adopt the following **new** chapter in lieu thereof:

CHAPTER 451

AUTHORIZED EMERGENCY VEHICLE CERTIFICATE OF DESIGNATION

761—451.1(307,321) Information. Information about certificates of designation for authorized emergency vehicles is available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.237.3156; by email at dealer.programs@iowadot.us; or on the department's website at www.iowadot.gov.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.2 and 321.3.

761—451.2(307,321) Certificate application and expiration.

451.2(1) Application for a certificate of designation as an authorized emergency vehicle is to be submitted to the motor vehicle division in the form and manner prescribed by the department.

451.2(2) The certificate of designation expires on the thirty-first day of December five years from the year in which it was issued.

This rule is intended to implement Iowa Code sections 307.12(1)“j” and 321.451.

761—451.3(321) Towing and recovery vehicles. In addition to the provisions of Iowa Code sections 321.231(2), 321.231(4), 321.231A, 321.324A(4) and 321.451, a towing or recovery vehicle with a valid certificate of designation may only display illuminated emergency lights in one of the following circumstances:

451.3(1) When the vehicle is at the scene of an emergency, which includes an incident dangerous to the public or roadside operations where increased visibility will mitigate risk of traffic hazards.

451.3(2) When otherwise authorized by a law enforcement officer.

This rule is intended to implement Iowa Code sections 321.231, 321.231A, 321.324A(4) and 321.451.

761—451.4(17A,307,321) Denial or revocation.

451.4(1) The department shall deny an application if the applicant does not establish that the vehicle will be used as an authorized emergency vehicle or if the applicant does not meet the criteria for issuance of a certificate pursuant to Iowa Code section 321.451.

451.4(2) The department shall revoke a certificate of designation if the holder fails to comply with the applicable provisions of this chapter or Iowa Code section 321.231, 321.231A, 321.324A(4) or 321.451 or if the certificate holder is no longer eligible for the certificate.

451.4(3) When the department denies or revokes a certificate of designation, notice will be sent in accordance with Iowa Code section 321.16. The revocation or denial takes effect 20 days from the date mailed. A person who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request will be submitted in writing to the director of the motor vehicle division and deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice.

This rule is intended to implement Iowa Code chapter 17A and sections 307.12(1)“j,” 321.13, 321.16, 321.231, 321.231A, 321.324A(4) and 321.451.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8939C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to financial responsibility

The Transportation Department hereby rescinds Chapter 640, “Financial Responsibility,” 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 307.12(1)“j” and 321A.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 321A and sections 321.266, 321.269 and 321.493.

Purpose and Summary

This rulemaking repromulgates Chapter 640 in compliance with Executive Order 10. Chapter 640 implements Iowa Code section 321A.2 and explains the financial responsibility requirements following an accident involving an uninsured driver or vehicle and how vehicle operators and owners can satisfy the requirements or meet an exception.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8336C**. Two public hearings were held on the following date(s):

- December 5, 2024

The Department received oral and written clarifying questions from Emily Gamb, Acuity Insurance. The Department answered her questions. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 640 and adopt the following **new** chapter in lieu thereof:

CHAPTER 640
FINANCIAL RESPONSIBILITY

761—640.1(321A) General.

640.1(1) Definitions. The definitions contained in Iowa Code section 321A.1 are hereby adopted. In addition:

“*License*” means “driver’s license” as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

“*Security*” means an amount of money sufficient in the determination of the department to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against an

operator or owner. Security is subject to the limitations and requirements of Iowa Code sections 321A.5 and 321A.9.

640.1(2) Exceptions. Except for accident reporting requirements, this chapter does not apply to the owners or operators of motor vehicles excepted by Iowa Code section 321A.33. To establish availability of an exception, a person required to show proof is to submit to the department a letter from the owner of the motor vehicle authorizing the person to use the motor vehicle.

640.1(3) Submissions. Except as otherwise provided in this chapter, required submissions are to be either mailed to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; emailed to accident.support@iowadot.us; or sent by facsimile to 515.239.1837.

This rule is intended to implement Iowa Code sections 321A.1, 321A.2 and 321A.33.

761—640.2(17A,321A) Hearing and appeal process. A person who is aggrieved by an action of the department implementing Iowa Code sections 321A.4 through 321A.11 may contest the action in accordance with rule 761—615.38(17A,321). The administrative law judge in a contested case hearing may subpoena witnesses and conduct any investigation deemed necessary to:

640.2(1) Determine if the person is properly identified with the accident.

640.2(2) Determine if there is any reasonable possibility that judgment could be rendered against the person.

640.2(3) Determine if the person is entitled to any exceptions provided by law.

640.2(4) Determine if the security required following an accident is reasonable and make adjustments deemed necessary or proper.

This rule is intended to implement Iowa Code chapter 17A and section 321A.2.

761—640.3(321,321A) Accident reporting requirements. Accident reporting requirements are specified in Iowa Code section 321.266 and on Form 433002, “Iowa Accident Report Form,” which is available from law enforcement officers, driver’s license service centers, or the motor vehicle division at the address in subrule 640.1(3).

This rule is intended to implement Iowa Code sections 321.266, 321.269 and 321A.4.

761—640.4(321A) Security required following accident. Following an accident, security is required pursuant to Iowa Code section 321A.5. For the purposes of determining the 60-day time frame under Iowa Code section 321A.5(1), a “report of a motor vehicle accident” includes a new or amended law enforcement officer accident report submitted to the department under Iowa Code section 321.266(3); a new or amended driver accident report, Form 433002, submitted to the department under Iowa Code section 321.266(2); any supplemental report submitted to the department under Iowa Code section 321.267; proof of transfer of ownership of a vehicle involved in the accident that occurred prior to the date of the accident; proof of identity of a driver incorrectly identified in an initial accident report; or proof of loss submitted by an insurance carrier authorized to transact insurance business in Iowa or its authorized subrogation provider. Nothing in this rule is to be construed to extend the duration of a suspension issued under Iowa Code section 321A.5 beyond the period authorized in Iowa Code section 321A.7.

640.4(1) Suspension.

a. If the security requirements of Iowa Code section 321A.5 are not met, the department shall suspend all licenses of the driver and all registrations of the owner.

b. The suspension takes effect 30 days after a suspension notice is served pursuant to rule 761—615.37(321). The notice is to inform the person of the amount of security required. The duration of the suspension is provided in Iowa Code section 321A.7.

640.4(2) Security—amounts and type.

a. The amount of security required of the uninsured driver and owner is to be determined from reports of the drivers involved in the accident, reports of investigating officers, and supplemental information obtained from persons involved in the accident concerning amounts of damage and injury sustained. Form 431074, “Insurance Request Letter,” may be mailed to parties to the accident for

supplemental information. The security required may be reduced after the notice has been served if evidence of exact costs is submitted to the department. The amount of security shall not exceed the minimum limits of liability for death or injury specified in Iowa Code chapter 321A.

b. The security is to be deposited with the department at the address in subrule 640.1(3) in one of the following forms:

(1) Cash.

(2) Cashier's check, certified check, bank draft, or postal money order payable to: Treasurer, State of Iowa.

(3) Surety bond issued by a company authorized to transact insurance business in Iowa pursuant to Iowa Code section 321A.24.

640.4(3) Security disposition.

a. Security is held by the state treasurer and can be released only for payment of a judgment or as otherwise provided in Iowa Code section 321A.10; by a court, including by Form 431097, "Order for Release of Security"; or by Form 433010, "Assignment and Release."

b. The security can be refunded at any time as follows:

(1) When compliance as provided in subrule 640.4(5) is presented to the motor vehicle division at the address in subrule 640.1(3); or

(2) When, after one year has elapsed from the date of the accident, Form 433007, "Affidavit for Reinstatement or Refund of Security," is completed by the depositor; the form indicates that no action has been initiated or judgment rendered; and the form is submitted to the motor vehicle division. Upon receipt of the form, the motor vehicle division may confirm the facts contained therein with the district court of the county where the accident occurred or any other court of competent jurisdiction.

640.4(4) Exceptions to requirement of security. A person who qualifies for an exception under Iowa Code section 321A.6(3), 321A.6(4) or 321A.7(3) must submit proof to the department at the address in subrule 640.1(3) showing that the person qualifies for the applicable exception as follows:

a. *General release from liability.* A qualified person is to submit Form 431036, "General Release." The signature of the party giving the release is to be notarized or witnessed by a disinterested person. The release is to be accompanied by a power of attorney or subrogation authority if signed by a person other than the party sustaining damage or injury. If the party giving release is a minor, the release is to be signed by the parent or legal guardian of the minor. The department may accept an equivalent alternative form to prove a person's general release from liability.

b. *Duly acknowledged written agreement release.* A qualified person is to submit Form 181301, "Agreement." Complete information is to be provided on the form including the total amount of settlement agreed upon by the parties involved and a release of liability upon fulfillment of payments. The signatures of all parties to the agreement are to be notarized. The release is to be accompanied by a power of attorney or subrogation authority if signed by a person other than a party sustaining damage or injury. If the party giving release is a minor, the release is to be signed by the parent or legal guardian of the minor. This documentation demonstrates compliance only for a party who has agreed to make payment and whose signature appears on the agreement release. The department may accept an equivalent alternative form to prove that a person has executed a duly acknowledged written agreement.

c. *Court-certified confession of judgment.* A qualified person is to submit a court-certified copy of a confession of judgment, including the total sum to be paid, the payment schedule agreed to by the parties, the signature of both parties, and proof of loss if the judgment is to be paid to a subrogation authority.

d. *Accord and satisfaction.* A qualified person is to submit documentation that one party to an accident or the party's insurance carrier has accepted liability for the accident and has compensated the other party to the accident for damages and injuries. This documentation does not demonstrate compliance for a third party.

e. *Covenant not to sue.* A qualified person is to submit documentation of a covenant not to sue that is given to a party to an accident as compliance by another party to the accident when a release would damage any claim against a third party.

f. Proof of no-fault or no reasonable possibility of judgment. A qualified person is to submit proof that the person is not at fault for the accident or that there is no reasonable possibility of judgment being rendered against a person in any of the following ways:

- (1) The investigating officer's report of the accident indicates the other driver caused the accident.
- (2) The other driver admits causing the accident.
- (3) Witness statements indicate the other driver caused the accident.
- (4) The other driver is convicted of a violation that caused the accident.

g. Adjudication of nonliability. A qualified person is to submit a certified copy of a final court judgment that is rendered in a civil damage action resulting from the accident and that relieves the person of any obligation to pay damages.

h. Bankruptcy. A qualified person is to submit a copy of the decree for bankruptcy showing that all possible claims against the person arising from the accident have been scheduled in the bankruptcy decree.

i. Owner exception under Iowa Code section 321A.6(3). A qualified vehicle owner is to submit documentation that the vehicle was being operated at the time of an accident without the owner's permission, express or implied. This exception does not apply to a person who was driving the vehicle at the time of the accident. Acceptable documentation includes the following:

- (1) A police report indicating the vehicle was stolen.
- (2) Proof of the driver's conviction of operating the vehicle without the owner's consent at the time of the accident.
- (3) A sworn affidavit that the vehicle was being operated without permission at the time of the accident.
- (4) A witness affidavit that the driver had been denied use of the vehicle.

j. Owner exception for vehicle sale. A qualified vehicle owner is to submit documentation that the vehicle owner had sold the vehicle involved in the accident and the title had been reassigned to the new owner but that departmental records did not yet show that the title had been transferred when the accident occurred. This exception does not apply to a person who was driving the vehicle at the time of the accident. Acceptable documentation includes the following:

(1) Form 431125, "Affidavit of Seller," completed by both the buyer and seller with signatures notarized or attested to by a member of the department unless the seller certifies under penalty of perjury that the buyer's signature could not be obtained and provides evidence to the satisfaction of the department that supports this certification.

(2) A sworn affidavit by the seller and witnesses to the sale, if any, that the vehicle had been sold, including a description of the vehicle, the date of the sale, the monetary consideration, facts concerning the assignment of title and delivery of possession, and the names of witnesses to the sale, if any.

k. Owner exception for vehicle transfer. A qualified vehicle owner is to submit certified copies of any court order by which ownership of a vehicle was awarded to another party prior to the date of the accident. This exception does not apply to a person who was driving the vehicle at the time of the accident.

This rule is intended to implement Iowa Code sections 321A.4 through 321A.11 and 321A.31.

761—640.5(321A) Judgments. A suspension of license and registrations is required under Iowa Code section 321A.13 when the department receives from the clerk of court a certification of judgment that has remained unsatisfied for at least 60 days pursuant to Iowa Code section 321A.12. Form 431126, "Certification of Judgment," may be used by the clerk of court to report a certified judgment to the department.

640.5(1) Suspension. The suspension becomes effective on the date the suspension notice is served pursuant to rule 761—615.37(321). The notice is to inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown. The duration of the suspension is provided in Iowa Code section 321A.14.

640.5(2) Suspension—exceptions. A person who qualifies for an exception under Iowa Code section 321A.13, 321A.14 or 321A.16 must submit proof to the department at the address in subrule 640.1(3) that the person qualifies for the applicable exception in one of the following ways:

a. Creditor's consent. To qualify for this exception, the judgment debtor must obtain written consent from the judgment creditor for issuance of the debtor's license and registrations while paying the judgment. If this consent is withdrawn, a new suspension is required in accordance with subrule 640.5(1).

b. Satisfaction of judgment. To qualify for this exception, the judgment debtor must submit a certificate of satisfaction or receipt for payment of the judgment from the clerk of court.

c. Bankruptcy. To qualify for this exception, the judgment debtor must submit a copy of the decree for bankruptcy that includes the judgment debt.

d. Court order for installment payments. To qualify for this exception, the judgment debtor must submit a court order authorizing payment of the judgment in installments. A new suspension, as provided in subrule 640.5(1), is required when the department receives notice of a default in the payments. The default suspension is to continue until the judgment is satisfied or a new court order authorizing payment of the judgment in installments is received.

e. Insurance coverage exception. To qualify for this exception, the judgment debtor who held effective liability insurance coverage at the time of the accident from which the judgment was rendered is to submit a copy of the insurance policy and a letter from the insurance carrier confirming that the insurance carrier was authorized to issue liability insurance, that the insurance carrier did provide coverage for the debtor in amounts required by the financial responsibility law, and the reason why the insurance carrier has not paid such judgment.

This rule is intended to implement Iowa Code sections 321A.12 through 321A.29 and 321A.31.

761—640.6(321A) Proof of financial responsibility. Proof of financial responsibility is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. A person's driver's license or nonresident operating privilege remains suspended or revoked until the person has filed proof of financial responsibility with the department. In addition, a person's motor vehicle registrations remain suspended until the person has filed with the department proof of financial responsibility for all motor vehicles registered to that person.

640.6(1) Duration of proof of financial responsibility. Proof of financial responsibility is required for two years starting on the effective date of the person's last suspension or revocation that qualifies under Iowa Code section 321A.17.

640.6(2) Methods of giving proof of financial responsibility.

a. Proof of financial responsibility may be shown by a liability insurance certificate pursuant to Iowa Code section 321A.19 on Form SR-22, "AAMVA Uniform Financial Responsibility Form," in paper or electronic format approved by the department. The form may include an owner's or operator's policy and effective date and is to identify the policyholder by name, address, driver's license number and birth date; the vehicles covered are to be identified by year, make, model and vehicle identification number. The form is to be certified in accordance with the Iowa financial responsibility law by an insurance carrier authorized to transact insurance business in Iowa or by an insurance carrier authorized by power of attorney. The policy is to be canceled only as provided in Iowa Code section 321A.22. Certification of coverage for an owner's policy authorizes the policyholder to have registrations for the described vehicles. Certification of coverage for an operator's policy does not authorize registrations.

b. Proof of financial responsibility may be given for a person who is an operator in the employ of the owner of the motor vehicle, or who is a member of the immediate family or household of the owner pursuant to Iowa Code section 321A.26, if the owner's insurance carrier certifies for the person required to show proof of financial responsibility. In addition to the requirements in paragraph 640.6(2) "a," the proof of financial responsibility is to identify both the policyholder and the person for whom proof of financial responsibility is given. This certification does not authorize the person required to give proof of financial responsibility to register a motor vehicle.

c. Proof of financial responsibility may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles if the owner's insurance carrier certifies for the person required to show proof of financial responsibility. Form SR-23, "AAMVA Uniform Financial Responsibility Form," is required in paper or electronic format approved by the department. The form is to identify the policyholder's name and address, policy number, policy dates and effective date. This certification does not authorize the person required to give proof of financial responsibility to register a motor vehicle.

d. Proof of financial responsibility may be given for a person who is an operator in the employ of an owner who has qualified as a self-insurer pursuant to Iowa Code section 321A.34. A certificate of self-insurance may be issued by the department to a person in whose name more than 25 vehicles are registered and who submits a financial statement that is found to be satisfactory to the department. Form SR-1, "Application for Self-Insurance," is to be completed and submitted to the department with a list of all the owner's motor vehicles registered in Iowa identified by make, year, model and vehicle identification number. When the application is approved, the department shall issue Form SR-2, "Self-Insurance Certificate." Failure to pay a judgment pursuant to Iowa Code section 321A.34 or failure to submit an annual financial statement is reasonable grounds for cancellation of the certificate.

640.6(3) *Proof of financial responsibility restriction.* When a person has filed satisfactory proof of financial responsibility in accordance with subrule 640.6(2), and applies for and is otherwise eligible for a driver's license, the department will issue the driver's license with the restriction code as described in 761—subrule 605.8(1).

640.6(4) *Terminating the suspension upon filing of proof of financial responsibility.* When proof of financial responsibility is provided under subrule 640.6(2) and the person is otherwise eligible for licensing or registration, the department will issue a notice terminating the suspension to the person whose privileges were suspended under Iowa Code section 321A.13, 321A.14, 321A.16 or 321A.17 or rule 761—640.5(321A) or 761—640.6(321A). The person's operating and registration privileges are restricted to the motor vehicles covered under the proof of financial responsibility filed by the applicant, except that a person required to give proof of financial responsibility who holds proof of financial responsibility as an operator may operate a nonowned vehicle provided the owner of that vehicle has liability coverage required under Iowa Code chapter 321A.

640.6(5) *Cancellation of proof of financial responsibility.* A cancellation pursuant to Iowa Code section 321A.22 is to be certified by an authorized insurance carrier representative on Form SR-26, "AAMVA Uniform Financial Responsibility Form," in paper or electronic format approved by the department. The form is to include the name and driver's license number of the policy owner, number of the policy to be canceled and effective date of cancellation.

640.6(6) *Suspension when proof of financial responsibility is canceled.*

a. When a person's proof of financial responsibility is canceled, the person is to immediately refile proof of financial responsibility or surrender the license and registrations to the department.

b. If the person fails to refile proof of financial responsibility, a suspension notice is to be served in accordance with rule 761—615.37(321). The suspension takes effect the date the notice is served. The notice is to inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until proof of financial responsibility is refilled.

640.6(7) *Terminating the proof of financial responsibility requirement.* A notice terminating the requirement to maintain proof of financial responsibility is to be issued to a person who has satisfied proof of financial responsibility requirements pursuant to Iowa Code section 321A.29. If the person's driver's license is still valid, the person may obtain a duplicate driver's license without the restriction under subrule 640.6(3).

640.6(8) *Electronic submission of proof of financial responsibility and cancellation of proof of financial responsibility.* An insurance carrier authorized to transact business in the state of Iowa is to electronically submit proof of financial responsibility and cancellation of proof of financial responsibility in a format approved by the department. No paper submissions of such proof will be accepted by the department from the insurance carrier.

This rule is intended to implement Iowa Code sections 321A.12 through 321A.29, 321A.31 and 321A.34.

761—640.7(321,321A) Transfer of suspended registration. A person whose motor vehicle registration privileges have been suspended may make a bona fide sale pursuant to Iowa Code sections 321.493 and 321A.30. The department will release the suspended registration to permit the registration of the motor vehicle by the purchaser when presented with either the seller's sworn statement on Form 411107, "Notice of Sale of Vehicle and Delivery of Title," or confirmation from the county treasurer that the sale has been made and release of the registration is necessary to complete the transfer of title.

This rule is intended to implement Iowa Code sections 321.493 and 321A.30.

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ARC 8940C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to financial liability coverage

The Transportation Department hereby rescinds Chapter 641, "Financial Liability Coverage Cards," and adopts a new Chapter 641, "Financial Liability Coverage," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j" and 321.20B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.20B, 321A.24, 321A.25 and 321A.34.

Purpose and Summary

This rulemaking repromulgates Chapter 641 in compliance with Executive Order 10. Chapter 641 establishes requirements for financial liability coverage cards to provide uniformity and consistency for cards issued by insurers transacting business in Iowa.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8337C**. Two public hearings were held on the following date(s):

- December 5, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 641 and adopt the following **new** chapter in lieu thereof:

CHAPTER 641
FINANCIAL LIABILITY COVERAGE

761—641.1(321) Information and location. Information, assistance, and answers to questions relating to this chapter are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.244.9124; by email at driver.services@iowadot.us; or by facsimile at 515.239.1837.

761—641.2(321,321A) Definitions.

“Financial liability coverage” means the same as defined in Iowa Code section 321.1(24B).

“Fleet” means five or more motor vehicles covered under an insurance policy or one or more motor vehicles covered by a bond filed under Iowa Code section 321A.24, a security certificate issued under Iowa Code section 321A.25, or a self-insurance certificate issued under Iowa Code section 321A.34.

“Registration number” as used in Iowa Code sections 321.20B, 321A.24(1) and 321A.25(1) means vehicle identification number.

761—641.3(321,321A) Content of financial liability coverage card.

641.3(1) A financial liability coverage card issued by an insurance company for a motor vehicle that is not insured as a part of a fleet is to contain the following information in addition to the requirements stated in Iowa Code section 321.20B(2) “a”:

- a. Policy number.
- b. Effective date of coverage.
- c. Year and make of the insured motor vehicle.
- d. The statement, “Coverage provided by this policy meets the minimum liability limits prescribed by law,” or a statement that is substantially similar.
- e. The statement, “This card must be carried in paper or electronic format in the insured motor vehicle at all times,” or a statement that is substantially similar.

641.3(2) A financial liability coverage card issued by an insurance company to the owner of a fleet of vehicles is to contain the following information pursuant to Iowa Code section 321.20B(2) “b”:

- a. Name of insured.
- b. Policy number.
- c. Effective and expiration dates of coverage.

- d. Either the vehicle identification number or the words “all owned vehicles” or the word “fleet.”
- e. The statement, “Coverage provided by this policy meets the minimum liability limit prescribed by law,” or a statement that is substantially similar.
- f. The statement, “This card must be carried in paper or electronic format in the insured motor vehicle at all times,” or a statement that is substantially similar.
- g. An emergency telephone number of either the insurer or the insurance agency.

761—641.4(321,321A) Responsibilities of insurer.

641.4(1) Each insurer issuing financial liability coverage in this state is to furnish a financial liability coverage card to the named insured for each motor vehicle insured for every new policy and every policy renewal issued.

641.4(2) The insurer is to file a true and correct sample copy of its financial liability coverage card with the department of insurance and financial services.

761—641.5(321) Acquisition of additional or replacement motor vehicles. A financial liability coverage card that indicates coverage for a replacement or additionally acquired motor vehicle may be used temporarily in a replacement motor vehicle for 30 days if ownership evidence as described in 761—subrule 400.19(3) is carried in the motor vehicle.

761—641.6(321) New policies. On new policy applications, a binder of liability coverage issued by an insurance agent authorized to conduct insurance business in this state is acceptable proof of financial liability coverage for a period of 30 days from the date of issuance of the binder.

These rules are intended to implement Iowa Code sections 321.1, 321.20B, 321A.24, 321A.25, and 321A.34.

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ARC 8941C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to aeronautics programs administration

The Transportation Department hereby rescinds Chapter 700, “Aeronautics Administration”; adopts a new Chapter 700, “Aeronautics Programs Administration”; and rescinds Chapter 710, “Airport Improvement Program,” Chapter 715, “Air Service Development Program,” Chapter 716, “Commercial Service Vertical Infrastructure Program,” and Chapter 717, “General Aviation Vertical Infrastructure Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)“j” and 328.12.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 328, 330 and 330A and section 8.57(5).

Purpose and Summary

This rulemaking repromulgates Chapter 700 in compliance with Executive Order 10. Chapter 700 establishes the procedures for a governmental subdivision to apply for and use state or federal funds for the improvement of airports, air service, and air navigation facilities. The chapter implements Iowa Code chapters 328, 330, and 330A and section 8.57(5). The chapter name is changed from Aeronautics Administration to Aeronautics Programs Administration. The following chapters are being rescinded and their content combined into this repromulgated chapter:

- Chapter 700 (Aeronautics Administration);
- Chapter 710 (Airport Improvement Program);
- Chapter 715 (Air Service Development Program);
- Chapter 716 (Commercial Service Vertical Infrastructure Program); and
- Chapter 717 (General Aviation Vertical Infrastructure Program).

The consolidation of five chapters into one simplifies and significantly reduces the size of the Iowa Administrative Code, while creating consistencies and a better understanding of aviation program administration.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8338C**. Two public hearings were held on the following date(s):

- December 4, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 700 and adopt the following **new** chapter in lieu thereof:

AERONAUTICS

CHAPTER 700

AERONAUTICS PROGRAMS ADMINISTRATION

761—700.1(328,330,330A) Purpose. These rules establish the procedures for a governmental subdivision to apply for state or federal funds for the improvement of airports, air service, and air navigation facilities.

761—700.2(328,330,330A) Definitions. The definitions in Iowa Code sections 328.1, 330.1, and 330A.2 apply to this chapter. In addition:

“*FAA*” means the Federal Aviation Administration.

“*Sponsor*” means the person or governmental subdivision that has the authority for improving, maintaining and operating an aviation facility.

“*Vertical infrastructure*” means the same as defined in Iowa Code section 8.57(5).

761—700.3(328,330,330A) Information and forms. Program information, forms, and application and submission instructions are available on the department’s website at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the modal transportation bureau at 515.239.1048. The mailing address is: Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—700.4(330) Federal airport improvement program.

700.4(1) Federal preapplications. Federal preapplications are submitted to the department.

700.4(2) Applicant eligibility. A governmental subdivision owning a public airport that is listed in the FAA’s National Plan of Integrated Airport Systems (NPIAS) is eligible to apply for federal funds. The NPIAS published report is available at the FAA website: www.faa.gov/airports. An airport that receives federal primary commercial service entitlement funds is not required to submit preapplications.

700.4(3) Project eligibility. Projects are to meet the FAA eligibility guidelines for federal airport improvement projects. Federal airport improvement program guidelines are available at the FAA website: www.faa.gov/airports.

700.4(4) Preapplication.

a. The department will distribute preapplication instructions and forms annually to each eligible applicant.

b. The completed preapplication for federal airport improvement funds are submitted to the department according to the method and time frame specified in the annual application instructions.

700.4(5) Project prioritization.

a. The department will review each completed preapplication for project eligibility and consistency with the state aviation system plan. The department will prioritize projects based on the goals and objectives in the state aviation system plan.

b. The commission is responsible for approving the prioritization of the preapplications.

c. The department will submit the preapplications with priorities identified to the FAA, and the FAA will contact the applicant directly concerning all subsequent action on the preapplication.

761—700.5(328) State airport improvement program.

700.5(1) Applicant eligibility.

a. A governmental subdivision owning or establishing a public airport is eligible to apply to the department for state airport improvement funds.

b. Participation in air service development projects is limited to airports currently receiving scheduled airline or commuter air service options and are designated as commercial service airports in the Iowa aviation system plan. An airport that loses air service completely may remain eligible for participation in the two following and consecutive annual application cycles if 100 percent of the grant

amounts are used according to conditions of the air service grant and solely toward efforts to reestablish air service for that affected airport.

700.5(2) *Eligible project activities.*

a. Statewide projects administered by the department include but are not limited to planning studies, aviation weather systems, airport markings, immediate safety enhancements, wildlife mitigations, windsocks, education, and outreach.

b. Airport projects may include but are not limited to runway, taxiway, and apron surfaces; lighting and navigational aids; obstruction removal; grading, drainage, and surfacing airfield surfaces and protection areas; signage, security access control and lighting; planning; and other airport enhancements. A project that involves airfield infrastructure is to comply with the airport master plan or airport layout plan as adopted by the governmental subdivision.

c. Air service development activities eligible for reimbursement include but are not limited to marketing, entry support, data collection, and items defined on the annual application.

700.5(3) *Funding.* The department establishes the maximum percentage of state share for eligible projects and may annually set a maximum dollar amount per award. Funding criteria are included in application instructions provided to airport sponsors.

700.5(4) *Application for funding.*

a. The department will make available the application instructions and forms to each public airport in Iowa. Applications are to be submitted to the department by the due date specified in the instructions.

b. Immediate safety enhancement project applications may be submitted at any time during the year to the department according to instructions that are part of the application form.

700.5(5) *Review and approval.* The department will review each completed application and evaluate the impact of the project on the aviation system considering the following factors: state system plan airport roles, goals and objectives; justification provided; ability to enhance aeronautical activity for the airport and system; local participation; and multijurisdictional support of the airport. The department will recommend projects to the commission for approval.

761—700.6(328) Commercial service vertical infrastructure program.

700.6(1) *Purpose.* The purpose of the commercial service vertical infrastructure program is to provide funding for vertical infrastructure improvements at Iowa's commercial service airports.

700.6(2) *Applicant eligibility.* Airports currently receiving scheduled airline or commuter air service and designated as commercial service airports in the Iowa aviation system plan are eligible to apply to the department for funding. An airport that loses air service completely may remain eligible for participation in the two following and consecutive annual application cycles if the airport is actively seeking reestablishment of air service.

700.6(3) *Eligible project activities.* Facilities eligible for reimbursement include but are not limited to terminal building, hangar, fuel facility, and maintenance facility construction or renovation. Activities may include associated design, land acquisition, grading and foundation work.

700.6(4) *Funding.* Unless otherwise appropriated, funds are distributed to commercial service airports using a 50/40/10 formula. Fifty percent of funds are allocated equally between each airport, forty percent are allocated based on the percentage of enplaned passengers at each airport versus the total number of enplaned passengers in the state, and ten percent are allocated based on the percentage of the air cargo tonnage at each airport versus the total tonnage in the state.

700.6(5) *Application for funding.* The department will make available application instructions and forms to eligible airports. Applications are to be submitted to the department by the due date specified in the instructions.

700.6(6) *Review and approval.* The department will review each completed application for eligibility and recommend projects and funding levels to the commission for approval.

761—700.7(328) General aviation vertical infrastructure program.

700.7(1) *Purpose.* The purpose of the general aviation vertical infrastructure program is to provide funding for vertical infrastructure improvements at Iowa's general aviation airports.

700.7(2) *Applicant eligibility.* A governmental subdivision owning or establishing a public airport is eligible to apply to the department for funding.

700.7(3) *Eligible project activities.* Facilities eligible for reimbursement include but are not limited to terminal building, hangar, fuel facility, and maintenance facility construction or renovation. Activities may include associated design, land acquisition, grading and foundation work.

700.7(4) *Funding.* The department establishes the maximum percentage of state share for eligible projects and may annually set a maximum dollar amount per award. Funding criteria are included in application instructions provided to airport sponsors.

700.7(5) *Application for funding.* The department will make available application instructions and forms to eligible airports. Applications are to be submitted to the department by the due date specified in the instructions.

700.7(6) *Review and approval.* The department will review each completed application and evaluate the impact of the project on the aviation system considering the following factors: state system plan airport roles, goals and objectives; justification provided; ability to enhance aeronautical activity for the airport and system; local participation; and multijurisdictional support of the airport. The department will recommend projects to the commission for approval.

761—700.8(328,330,330A) Project administration. After a project has been approved by the commission, the department will offer the award in an agreement that specifies responsibilities of the sponsor. The agreement is to specify the amount of state funds, the contract period, and the responsibilities for project planning, development, payment process, and reporting. The department may inspect the project for compliance with the agreement and may audit all project costs incurred. Payments to the airport sponsor for eligible project costs are made on a cost reimbursement basis. Project-related engineering fees are an eligible expense and are reimbursed in compliance with the agreement.

These rules are intended to implement Iowa Code section 8.57(5) and chapters 328, 330 and 330A.

ITEM 2. Rescind and reserve **761—Chapter 710.**

ITEM 3. Rescind and reserve **761—Chapter 715.**

ITEM 4. Rescind and reserve **761—Chapter 716.**

ITEM 5. Rescind and reserve **761—Chapter 717.**

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ARC 8942C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to Iowa airport registration

The Transportation Department hereby rescinds Chapter 720, "Iowa Airport 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 sections 307.12(1)"j," 328.12 and 328.19 and 2016 Iowa Acts, chapter 1131, section 3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and sections 328.1, 328.12 and 328.19 and 2016 Iowa Acts, chapter 1131, section 3.

Purpose and Summary

This rulemaking repromulgates Chapter 720 in compliance with Executive Order 10. Iowa Code section 328.19 requires airports open for use by the public to register and meet minimum safety standards promulgated by the Department. Chapter 720 promulgates airport registration rules and minimum safety standards. It also identifies airport closing requirements to ensure public safety and addresses repayment of financial assistance as required by previous legislation.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8339C**. Two public hearings were held on the following date(s):

- December 5, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 720 and adopt the following **new** chapter in lieu thereof:

CHAPTER 720
IOWA AIRPORT REGISTRATION

761—720.1(328) Scope and contact information.

720.1(1) This chapter establishes airport registration and airport closing requirements for airports open for use by the public.

720.1(2) Questions regarding this chapter may be directed to the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1468; or through the department's website at www.iowadot.gov/aviation.

761—720.2(328) Definitions. The definitions in Iowa Code section 328.1 apply to this chapter. In addition:

“Obstruction” means any structure, object of natural growth, or use of land that impedes the airspace required for the takeoff or landing of aircraft at an airport.

“Private use” means available for use by the owner or other persons authorized by the owner.

“Public use” means available for use by the public without prior approval from the owner or operator.

761—720.3(328) Public-use airport. Airport registration requirements apply to public-use airports.

720.3(1) Registration. An airport is to apply to the department when seeking a public-use airport certificate of registration. If following an inspection, the airport meets minimum safety standards, the department will issue the airport a public-use airport certificate of registration.

720.3(2) Registration renewal. Each public-use airport certificate of registration renews automatically each year unless the certificate is revoked. When an airport is to be inspected by the department, the airport will be provided with an airport registration application and will need to apply for registration renewal.

720.3(3) Airport inspection. Each registered public-use airport is subject to inspection by the department at any reasonable time, but the airport will be inspected no less than every three years. If the inspection by the department reveals an unsafe condition or a failure to meet the minimum safety standards, the department will record that fact and notify the airport in writing with necessary corrective actions. Failure to implement corrective actions may result in airport registration revocation or denial. Federal Aviation Administration (FAA) inspection of an airport certified under 14 CFR Part 139 may be accepted in lieu of an inspection by the department.

720.3(4) Posting. The airport certificate of registration is to be posted in a prominent place available to the public at the airport. If there are no buildings at the airport, the certificate is to be displayed at the office of the airport manager or caretaker. If a certificate of registration is revoked by the department, it must be removed from public view and destroyed.

761—720.4(328) Revocation or denial. The department may revoke or deny a certificate of registration pursuant to Iowa Code section 328.19.

761—720.5(328) Corrective action plan. If an airport is not in compliance with minimum safety standards, the airport may submit a proposed corrective action plan that identifies a time period up to six years to bring the airport into compliance. The plan must be reasonable and attainable. The plan is subject to approval by the department, and if approved, the department may issue a certificate of registration that can be revoked at any time if an unsafe condition develops.

761—720.6(328) Minimum safety standards. The minimum safety standards for a public-use airport are as follows:

720.6(1) Runways.

a. *Width.* The minimum usable runway width will be 50 feet.

b. *Marking of paved runways.* Marking of paved runways will be in accordance with FAA Circular 150/5340-1M (Standards for Airport Markings) as amended through May 10, 2019.

c. *Marking of nonpaved runways.* Marking of nonpaved runways will use high-visibility yellow airport marking cones no less than 36 inches in diameter and 24 inches tall.

(1) Runway edge marking cones are to be placed 200 feet apart outlining the length of the runway surface.

(2) Runway ends are to be marked using six marking cones placed perpendicular to the runway heading.

(3) Displaced thresholds are to be marked by adding three marking cones from each runway edge at the point of the threshold location along the length of the runway surface.

d. Surfaces. Runway surfaces will be free of foreign debris and surface deficiencies that could impede the ability of aircraft to land or take off.

e. Winter operations.

(1) During and following winter events, runways and other operational areas are to be cleared as quickly as practical.

(2) To the extent possible, snow pile height is to be minimized.

(3) Notices to Air Missions (NOTAMS) are to be issued with the FAA to alert aircraft operators when an airport is unusable or unsafe for aircraft operations. NOTAMS should identify the closure of an airport or affected runways and provide a reasonable estimate of when the airport will be cleared and reopened for public use.

(4) If an airport does not intend to conduct winter operations for a winter season, it will be noted in the FAA's Airport Master Record and Chart Supplement so pilots are aware snow removal and other winter operations will not occur.

f. Unusable and unsafe runways. When a runway has become temporarily unusable or unsafe for aircraft operations, the affected area will be marked by suitable flags, barriers or flares clearly showing the boundaries of the unsafe or unusable area.

(1) Affected runways are to be marked in accordance with guidelines in rule 761—720.7(328).

(2) NOTAMS are to be issued to close the airport or affected runways and provide a reasonable estimate of when the airport is to be reopened for public use.

g. Line of sight. Runway sight distance will provide an unobstructed line of sight from any point 5 feet above the runway surface to any point 5 feet above the runway surface for the entire length of the runway, or the sponsor shall note in the FAA's Airport Master Record and Chart Supplement, so pilots are aware of the line-of-sight obstruction.

720.6(2) Approach zones.

a. Approach surface. The approach zone of a runway extends from the runway end (or displaced threshold) and is longitudinally centered on the runway centerline for a horizontal distance of 1,000 feet. The width is 250 feet starting at the runway end and widens out to 450 feet at the farthest point from the runway.

b. Approach obstructions. Approaches are to remain free of obstructions above a glide path of a 20:1 ratio within the approach zone of each usable runway. If an obstruction exists in an approach zone that impedes the airspace required for the takeoff or landing of aircraft, the obstruction should be removed. If removal of the obstruction is not possible, the runway threshold is to be displaced. The runway length remaining between the displaced threshold and the departure end of the runway is the landing distance available.

c. Crops in approach zones. Crops are not considered an approach zone obstacle.

d. Consideration for vehicles and trains. When the approach zone to any runway crosses a road or railroad, the glide path on a 20:1 ratio shall pass at least 17 feet above an interstate highway, 15 feet above any other public roadway, 10 feet above a private road, and 23 feet above a railroad.

720.6(3) Obstruction-free areas.

a. General obstruction-free areas. The following areas of the airport will be free of obstructions with the exception of operational and frangible equipment that is essential for operation of the airport. For this subrule, obstructions include any object of natural growth, terrain, construction hazards, equipment, crops or grass taller than 8 inches, or other items that would provide a potential hazard to aircraft operations on the ground or in the air:

(1) Paved runways.

1. Within 125 feet of the centerline.

2. Within 200 feet of the runway end.
- (2) Nonpaved runways.
 1. Within 60 feet of the centerline.
 2. Within 10 feet of runway edge markers along the entire length of the runway.
- (3) Automated weather observing equipment.
 1. Any airport property or easement located within a 100-foot radius.
 2. Reserved.
- b. *Building obstruction-free areas.* In no case may a building be constructed closer than 125 feet from a runway centerline of a paved runway or 50 feet from the edge of a nonpaved runway.

720.6(4) Facilities.

- a. *Wind indicator.* The airport is to be equipped with an 18-inch diameter or larger windsock, blaze orange in color. If the airport is lighted for night operation, the windsock is to be lighted.
- b. *Fire extinguishers.* At least one operational fire extinguisher capable of extinguishing all classes of fires is to be readily accessible to aircraft fueling or ramp areas.
- c. *Lighting.* If an airport is published to have lighting for night operation:
 - (1) The system is to be operable.
 - (2) The airport is to be lighted from dusk to dawn or have an operable air-to-ground controller for the lighting system.

761—720.7(328) Airport closing.

720.7(1) Notice. When an airport ceases operation for any reason, the sponsor must notify the department, destroy the certificate of registration and mark the landing area to clearly indicate that the airport is closed to air traffic.

720.7(2) Marking. All marking indicating a usable runway is to be obliterated. The sponsor will place at a central location a yellow X in accordance with FAA Advisory Circular 150/5340-1M (Standards for Airport Markings) as amended through May 10, 2019.

720.7(3) Temporary closing. When conditions, not related to a winter event, require the temporary closing of a runway, the runway is to be marked on both ends with a yellow X in accordance with FAA Advisory Circular 150/5340-1M (Standards for Airport Markings) as amended through May 10, 2019.

720.7(4) Repayment of financial assistance. Within 30 days of closing an airport (other than temporary closing), the sponsor is to request from the department a review of contractual obligations that require repayment of financial assistance. The department will provide a determination detailing grant obligations that must be repaid. Any repayment of grants is to be made to the department in no more than five equal annual installments, beginning one year from the airport's closure date. If an alternative future use of the airport facility is planned for a project that creates jobs and expands the economy, the sponsor may, within 30 days of the department's determination, request forgiveness of repayment. The request must include a plan detailing the alternative future use of the airport facility, an explanation of how the alternative future use creates jobs and expands the economy, a cost-benefit analysis from the sponsor, a commitment of private investment in the project equal to at least two times the amount of repayment due to the state, and a commitment from the sponsor, or associated political subdivision(s), to complete the alternative use project within five years. The department will review the request for forgiveness of repayment and approve or deny the request within 60 days of receipt.

761—720.8(17A) Hearing and appeal process. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13.

These rules are intended to implement Iowa Code chapter 17A and sections 328.1, 328.12, 328.19 and 328.35.

[Filed 1/30/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8943C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rulemaking related to aircraft registration**

The Transportation Department hereby rescinds Chapter 750, “Aircraft 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 sections 307.12(1)“j” and 328.12.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 328.

Purpose and Summary

This rulemaking repromulgates Chapter 750 in compliance with Executive Order 10. Chapter 750 establishes procedures for the registration and collection of aircraft registration fees and use tax for civil aircraft in Iowa. Aircraft registration fees are deposited to the State Aviation Fund for use on safety, planning, and airport development projects as recommended by the Department and approved by the Iowa Transportation Commission.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8344C**. Two public hearings were held on the following date(s):

- December 6, 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 Department on January 21, 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, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 750 and adopt the following **new** chapter in lieu thereof:

CHAPTER 750
AIRCRAFT REGISTRATION

761—750.1(328) General.

750.1(1) Scope. This chapter establishes the procedures for registration of civil aircraft pursuant to Iowa Code chapter 328.

750.1(2) Contact. Information, instructions, and forms are available from the modal transportation bureau or on the department's website at www.iowadot.gov/aviation. Application forms may also be obtained from aircraft dealers. The mailing address for aircraft registration is the Iowa Department of Transportation, Modal Transportation Bureau, Aircraft Registration, 800 Lincoln Way, Ames, Iowa 50010.

750.1(3) Definitions. The definitions in Iowa Code section 328.1 apply to this chapter. In addition, the following definition is established for the purpose of Iowa Code section 328.21(8):

"Specified minimum level of aviation services to the general public" means the use of aircraft that provide nonagricultural aviation services, including aircraft rental, flight training, or passenger and cargo air carrier operations.

This rule is intended to implement Iowa Code chapter 328.

761—750.2(328) Registration. When an aircraft is registered in Iowa, the model year of the aircraft is used to determine the number of times the aircraft was previously registered, and a reduction of the registration fee is computed accordingly. "Model year," except where otherwise specified, means the year of original manufacture or the year certified by the manufacturer. For the purpose of registration, the model year advances one year each January 1.

This rule is intended to implement Iowa Code section 328.21.

761—750.3(328) First registration procedure.

750.3(1) Registration requirement. A civil aircraft that has an FAA-assigned N number is subject to registration in Iowa unless it is exempt by statute.

750.3(2) Application.

a. The owner of an unregistered aircraft is to submit to the department an application for aircraft registration on a form prescribed by the department.

b. The application is to include the registration fee and the required use tax or evidence of tax exemption.

c. Following review of the application, the department may request additional information or documents from the owner.

d. Upon receipt of a completed application, registration fee, and use tax or evidence of tax exemption, the department will issue to the applicant an aircraft registration certificate for the aircraft.

This rule is intended to implement Iowa Code sections 328.20, 328.21, 328.26, 328.27, 328.44 and 328.45.

761—750.4(328) Aircraft not airworthy. An aircraft that is not airworthy is not subject to registration fees if the owner submits with the registration application a written, signed explanation of the aircraft's condition and an estimate of the date when the aircraft will be airworthy. The department will mark the

record of the aircraft until the owner notifies the department that the aircraft is airworthy or until the aircraft is no longer subject to registration in Iowa.

This rule is intended to implement Iowa Code section 328.21.

761—750.5(328) Renewal notice. Thirty days before the end of the registration year, the department will send a renewal notice to the owner of each registered aircraft. The renewal notice will include the registration fee due for the upcoming registration year and the descriptive data recorded for the aircraft.

This rule is intended to implement Iowa Code sections 328.20, 328.21, 328.26, 328.27, 328.37 and 328.56A.

761—750.6(328) Penalty on registration fees.

750.6(1) *Aircraft moved into Iowa.* The penalty on the registration fee accrues from the first day of the month following 30 days from the date the aircraft is moved into Iowa.

750.6(2) *When delinquency extends beyond the current year.* When the penalty on a delinquent registration fee extends beyond the current year, the penalty continues to accrue until paid. The penalty accrues only on the fee applicable at the time the delinquency accrued and is to apply to subsequent registration fees that have not been paid.

750.6(3) *Specific penalty date.* When a specific penalty date is provided by statute or rule, the penalty accrues from that date, even if the day is a Saturday, Sunday or holiday.

This rule is intended to implement Iowa Code sections 328.50 through 328.52.

761—750.7(328) Application for special certificate. When applying to the department for a special certificate, the applicant is to submit reasonable proof of bona fide status as a manufacturer, transporter or dealer. Manufacturer or dealer applicants are to verify that no aircraft have been held in a dealer special certificate inventory for a period of more than three years.

This rule is intended to implement Iowa Code sections 328.28 and 328.29.

761—750.8(328) Lien. The department has the authority to record a lien against the federal aircraft title and sue to collect unpaid fees and penalties.

This rule is intended to implement Iowa Code sections 328.47 through 328.49.

761—750.9(17A) Hearing and appeal process. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13.

This rule is intended to implement Iowa Code chapter 17A.

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[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8898C

UTILITIES COMMISSION[199]

Adopted and Filed

Rulemaking related to electric lines

The Utilities Commission hereby rescinds Chapter 11, "Electric Lines," 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 478 and sections 474.5 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 478.

Purpose and Summary

The Commission commenced this rulemaking under the provisions of Executive Order 10. The purpose of this chapter is to set forth the requirements for requesting a Commission-issued electric transmission line franchise for the construction, operation, and maintenance of electric transmission lines and to set forth the procedures governing electric transmission line franchise contested cases. The Commission is rescinding existing Chapter 11 and repromulgating a new version of Chapter 11 with updated language to reflect current Commission procedures, the removal of unnecessary and unneeded language, and the reduction of restrictive terms.

The Commission issued an order adopting amendments on January 22, 2025. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0011.

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 8276C**. A public hearing was held on the following date(s):

- November 25, 2024
- December 12, 2024

The following entities attended one or both public hearings: Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Association of Electric Cooperatives (IAEC); ITC Midwest LLC; MidAmerican Energy Company; and the Iowa Farm Bureau Federation. All commenting entities expressed support for the Notice version of Chapter 11 in its entirety. The Commission received written comments in support of the Notice version of the rulemaking from OCA and IAEC.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on January 22, 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

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 March 26, 2025.

The following rulemaking action is adopted:

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

CHAPTER 11
ELECTRIC LINES

199—11.1(478) General information.

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

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

11.1(3) Filings. An electric company shall use the appropriate forms available on the commission's website when filing a petition for new franchise, amendment to franchise, abbreviated franchise process, or extension of franchise. All filings shall be pursuant to 199—Chapter 14.

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

11.1(5) Issuance of franchise. Where the commission has previously determined that an existing transmission line satisfies the requirements of Iowa Code section 478.4, and no evidence to the contrary has been offered and no objection has been filed in the docket, a franchise may be renewed or amended by the issuance of a franchise without an accompanying order.

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

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

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

"Commission" means the utilities commission.

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

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

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

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

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

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

11.3(2) *Distance from buildings.* No transmission line shall be constructed outside of cities, except by agreement, within 100 feet of any dwelling, house, or other building except where the transmission line crosses or passes along a public highway or is located alongside or parallel with the right-of-way of any railroad company, consistent with the provisions of Iowa Code section 478.20. Construction of a new building within 100 feet of an existing transmission line shall be construed as agreement within the meaning of Iowa Code section 478.20.

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

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

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

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

- a. Utility service requirements and planning that have resulted in the proposed construction.
- b. When the transmission line will be constructed.
- c. In general terms, the physical construction, appearance, and typical location of poles and conductors with respect to property lines.
- d. In general terms, the rights that the electric company seeks to acquire by easements.
- e. Procedures to be followed in contacting affected persons with whom the electric company may seek specific negotiations in acquiring voluntary easements.
- f. Methods and factors used in arriving at an offered price for voluntary easements, including the range of cash amount of each component. An example of an offer sheet shall be included with the presentation.
- g. The manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.

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

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

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

11.4(4) *Notice of informational meeting.* The notice of each informational meeting shall be provided by certified mail, return receipt requested, to the persons required to be notified pursuant to Iowa Code section 478.2. The notification corridor includes any property over which the electric company may seek easements. Not less than 30 days prior to the date of the informational meeting, a copy of the notice shall be filed with the commission and the notice deposited in the U.S. mail by the electric company.

a. In addition to the information listed in Iowa Code section 478.2(3) “*b*,” the notice shall include a copy of the statement of damages as described in subrule 11.9(4) and the statement, “Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Commission at 515.725.7300 in advance of the scheduled date to request accommodations.”

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

c. The electric company shall file prior to the informational meeting an affidavit describing the good-faith effort the electric company undertook to locate the addresses of the persons required to be notified pursuant to Iowa Code section 478.2. The affidavit shall be signed by an officer of the electric company.

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

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

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

b. Exhibit B.

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

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

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

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

4. The names and corporate limits of cities.

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

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

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

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

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

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

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

12. The locations of any buildings and any grain bins for which a conductor clearance drawing is provided as part of Exhibit C.

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

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

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

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

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

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

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

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

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

(7) Information related to the transmission line's inclusion in planning organized by regional transmission operators.

e. *Exhibit E.* This exhibit is required only if the petition requests the right of eminent domain. This exhibit shall be in its final form prior to issuance of the official notice by the commission and approval of the eminent domain notice required by Iowa Code section 478.6(2). The exhibit shall consist of a map

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

- (1) The legal description of the property.
- (2) The legal description of the desired easement.
- (3) A specific description of the easement rights being sought, including the right to install more than one circuit if an existing transmission line is proposed to be collated with the proposed new transmission line in the manner described in subrule 11.6(4), as well as the names of the owner and operator of the existing transmission line.
- (4) The names and addresses of all affected persons.
- (5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of all electric lines and supports within the proposed easement, the location of and distance to any building within 100 feet of the proposed transmission line, and any other features pertinent to the location of the transmission line, the supporting structures, or the rights being sought.
- (6) An affidavit affirming and describing the good-faith effort undertaken and the review of land records performed to identify all affected persons for all parcels over which the electric company is seeking eminent domain. The affidavit shall be signed by an attorney representing the electric company or an electric company employee responsible for conducting or overseeing the good-faith effort.

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

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

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

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

11.5(2) Notice of franchise petition.

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

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

c. Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an

address through which persons may request a map from the electric company at no cost. The map need not be as detailed as the Exhibit B map but shall include the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

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

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

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

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

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

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

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

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

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

11.6(4) An amendment to a franchise shall not be required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user or for relocation of an existing franchised transmission line to common structures with a new transmission line, where such colocation has been approved in a petition for franchise for the new transmission line. In the case of such proposed colocation, the electric company shall file a notice in the docket of the line that is proposed to be relocated, either in whole or in part, no later than the date the electric company first mails its notice of public informational meeting pursuant to subrule 11.4(5) for the proposed new transmission line.

a. The notice shall include the following:

(1) A copy of the notice of public informational meeting pursuant to subrule 11.4(5) for the proposed new transmission line;

(2) The docket number for the proposed new transmission line;

- (3) The date(s) of the public informational meeting(s) for the proposed new transmission line;
- (4) To the extent known, a statement indicating the plans for the remaining existing infrastructure once the existing transmission line has been collocated with the new transmission line, which shall be updated as such plans are finalized;
- (5) A copy of the map included with the public informational meeting notice, with indications for the proposed areas of collocation; and
- (6) The possibility that the right-of-way for the collocated portions may be acquired by condemnation if approved by the commission.

b. A notice of modification not requiring an amendment to a franchise shall be filed in the docket of the relocated transmission line in accordance with subrule 11.10(4). The map filed with such notice shall indicate all areas of collocation.

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

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

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

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

- a.* The project consists of the conversion, upgrading, or reconstruction of an existing electric line operating at 34.5 kV to a line capable of operating at 69 kV.
- b.* The project will be on substantially the same right-of-way as an existing 34.5 kV line. For purposes of this subrule, “substantially the same right-of-way” means that the new or additional interests in private property right-of-way will be required for less than one mile of the proposed project length. Easements required for conductor and crossarm overhang of private property or for anchor easements shall not be considered when determining the length of additional interests in private property right-of-way.
- c.* The project will have substantially the same effect on the underlying properties as the existing 34.5 kV line.
- d.* The completed transmission line will comply with the Iowa electrical safety code found in 199—Chapter 25.
- e.* The electric company does not request the power of eminent domain.
- f.* The electric company agrees to pay all costs and expenses of the franchise proceeding.

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

- a. Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, the termini of the transmission line, the total mileage, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name. The description shall identify any termini located in other counties.
- b. Exhibit B.* A map showing the route of the transmission line drawn with reasonable accuracy, considering the scale. The map may be to any scale appropriate for the level of detail to be shown but not smaller than one inch to the mile and legible when printed on paper no larger than 11 by 17 inches. The following information shall be provided:

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

voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

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

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

(4) The names and corporate limits of cities.

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

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

(7) The locations of any buildings and any grain bins for which a conductor clearance drawing is provided as part of Exhibit C.

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The notice shall include the following information:

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

(2) A copy of the Exhibit B map.

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

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

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

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

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

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

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

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

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

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

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

(4) The names and corporate limits of cities.

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

(6) The locations of any buildings and any grain bins for which a conductor clearance drawing is provided as part of Exhibit C.

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

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

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

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

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

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

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

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

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

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

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

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

11.8(6) *Maps in published notice.* Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map required by this subrule need not be as detailed in the Exhibit B map but shall include the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

199—11.9(478) Additional requirements.

11.9(1) *Segmental ownership or joint use.* Petitions covering transmission line routes having segments of the total transmission line with different owners shall establish that the entire transmission line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Such a petition shall include documentation showing that the different owners have agreed to the construction being proposed in the petition. Additionally, petitions covering transmission line routes with segments of an existing transmission line being relocated to common poles with the proposed new transmission line shall establish that the existing line continues to be necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Such a petition shall include documentation showing that the owners of the two transmission lines have agreed to the joint use of the poles for the proposed new transmission line.

11.9(2) *Compliance with Iowa electrical safety code.* If review of Exhibit C, or inspection of an existing electric line that is the subject of a franchise petition, finds noncompliance with 199—Chapter 25, the Iowa electrical safety code, the commission may delay final action on the petition or otherwise require a satisfactory showing by the electric company that the areas of noncompliance have been or will be corrected. Disputed safety code compliance issues will be resolved by the commission.

11.9(3) *Statement of damage claims.*

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

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

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

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

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

11.9(4) *Route study.* If a hearing on a petition is required by Iowa Code section 478.6(1), an electric company shall file a route study, if conducted, with the commission at the earlier of either the electric company's next revised petition filing or its testimony in support of the petition after the commission orders a hearing.

199—11.10(478) Notices.

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

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

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

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

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

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

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

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

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

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

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

c. If construction of the transmission line authorized by a franchise has not commenced within two years of the date the franchise is granted, or within two years after final disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited unless the electric company petitions the commission for an extension of time to commence construction. The commission may grant the extension if good cause is shown for the failure to commence construction.

d. Final petition Exhibits A and B shall be filed with a notice of franchised line construction. If there are no deviations from the previously filed Exhibit A and Exhibit B to the line as built, the electric company may file a statement advising that there are no such deviations in lieu of refileing the unchanged exhibits. The commission may require the filing of a revised Exhibit C if the commission determines, after inspection, that such filing is warranted.

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

11.10(4) *Notice of modification not requiring an amendment to a franchise.* Whenever a transmission line under franchise is relocated, reconstructed with different materials or specifications

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

199—11.11(478) Common and joint use.

11.11(1) *Common use construction.* Whenever an overhead electric line capable of operating at 69 kV or more is built or rebuilt on public road rights-of-way located outside of cities, all parallel overhead electric supply circuits on the same road right-of-way shall be attached to the same or common line of structures unless the commission authorizes, for good cause shown, the construction of separate pole lines.

11.11(2) *Relocating lines.* When a transmission line is to be constructed in a location occupied by an electric line or a communication line, the expense of relocating the existing line shall be borne by the electric company proposing the new transmission line. The electric company proposing the new transmission line shall not be required to pay any part of the used life of the existing line, but shall pay the nonbetterment expense of relocating the existing line.

199—11.12(478) Termination of franchise petition proceedings.

11.12(1) *Termination of docket.* Upon written notice to the commission by an electric company that a franchise petition or petition for amendment of a franchise is withdrawn, the docket shall be closed.

11.12(2) *Failure to respond.* If an electric company fails to respond to written notification by the commission, to correct an incomplete or deficient franchise petition, or to publish the official notice after the form of notice is provided by the commission, the commission may dismiss the petition as abandoned. If dismissal would cause an existing transmission line to be without a franchise, the commission may also pursue imposition of civil penalties.

199—11.13(478) Fees and expenses. The electric company shall pay the actual cost incurred by the commission attributable to the processing, investigation, and inspection related to a petition requesting an electric franchise, an amendment to an electric franchise, or an extension of an electric franchise.

These rules are intended to implement Iowa Code chapter 478.

[Filed 1/27/25, effective 3/26/25]

[Published 2/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8899C

UTILITIES COMMISSION[199]

Adopted and Filed

Rulemaking related to hazardous liquid pipelines and underground storage

The Utilities Commission hereby rescinds Chapter 13, "Hazardous Liquid Pipelines and Underground Storage," 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 479 and 479B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 479 and 479B.

Purpose and Summary

The Commission commenced this rulemaking pursuant to Executive Order 10. The purpose of Chapter 13 is to explain the procedures governing hazardous liquid pipelines and hazardous underground storage facilities.

The Commission issued a conditional order adopting amendments on January 24, 2025. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0013.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8357C**. A public hearing was held on the following date(s):

- December 16, 2024
- December 30, 2024

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, attended both public hearings and stated that it has no objection to the rulemaking. At the second public hearing, Summit Carbon Solutions, LLC, attended and stated that while it has no comments on the rules, the premise of Executive Order 10 is to reduce regulatory burden.

The Commission received written comments from OCA and the Iowa Farm Bureau Federation (Farm Bureau). In its comment, OCA stated it has no objection to the rules proposed by the Commission. Farm Bureau's comments addressed six proposed modifications to the proposed rules.

The Commission made three changes from the Notice based on comments provided by Farm Bureau. First, the Commission modified subparagraph 13.2(5)"a"(3) to include a reference to the entirety of subrule 13.3(3) rather than the proposed reference to paragraph 13.3(3)"b." Second, the Commission modified subrule 13.4(5) to change the phrase in the first sentence from "at the time the petition is filed" to "sixty days prior to the hearing." Finally, in the third sentence of subrule 13.7(2), the Commission added the term "construction" for clarification purposes.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on January 24, 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

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

199—13.1(479,479B) General information.

13.1(1) Purpose and authority. The purpose of this chapter is to implement Iowa Code chapters 479 and 479B and to establish procedures and filing requirements for a permit to construct, maintain, and operate a hazardous liquid pipeline; for an amendment to an existing permit; and for renewal of an existing permit. This chapter also implements Iowa Code chapter 479B for permits for underground storage of hazardous liquids. The rules in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are adopted by the Iowa utilities commission pursuant to Iowa Code chapters 479 and 479B.

13.1(2) When a permit is required. A hazardous liquid pipeline permit is needed for any hazardous liquid pipeline to be constructed in Iowa, regardless of length or operating pressure of the pipeline.

13.1(3) Definitions. The definitions listed in Iowa Code section 479B.2 are incorporated herein by reference. Words and terms not otherwise defined in this chapter or Iowa Code section 479B.2 will have their usual meaning. For the administration and interpretation of this chapter, the following words and terms will have the following meanings:

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

“*Amendment of permit*” means changes to the pipeline permit or pipeline that require the filing of a petition to amend an existing pipeline permit as described in rule 199—13.9(479,479B).

“*Approximate right angle*” means within 5 degrees of a 90-degree angle.

“*CFR*” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of March 26, 2025, unless a separate effective date is identified in a specific rule.

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

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

“*Negotiating*” means contact between a pipeline company and a person with authority to negotiate an easement or other interest in land that involves the location, damages, compensation, or other matter that is restricted by Iowa Code sections 479.5(5) and 479B.4(6). Contact for purposes of obtaining addresses and other contact information from a landowner or tenant is not considered negotiation.

“*Permit*” means a new, amended, or renewal permit issued by the commission.

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

“*Pipeline*” means any intrastate or interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.

199—13.2(479,479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project five miles or more in length, including both the current project and future anticipated

extensions, that is to be operated at a pressure in excess of 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or property rights would be affected.

13.2(1) *Time frame for holding meeting.* Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit.

13.2(2) *Facilities.* A pipeline company is responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility that is in substantial compliance with the Americans with Disabilities Act Standards for Accessible Design, including both Title II regulations at 28 CFR part 36, subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR part 1191, appendices B and D, where such a building or facility is reasonably available.

13.2(3) *Location.* The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

13.2(4) *Commission approval.* A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting with the commission and include a proposed date and time for the informational meeting, an alternate time and date, and a description of the proposed project and map of the route, including the notification corridor. The pipeline company may be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required. Not less than 30 days prior to the informational meeting, the pipeline company shall file with the commission the location of the informational meeting. Not less than 14 days prior to the informational meeting, the pipeline company shall file with the commission a copy of its informational meeting presentation.

13.2(5) *Notices.* Notice by mailed and published notice of each informational meeting shall be given to persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and those persons in possession of or residing on the property in the corridor in which the pipeline company intends to seek easements.

a. The notice shall include the information listed in Iowa Code sections 479.5(4)“*b*” and 479B.4(5)“*a*,” as well as the following:

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

(2) The following statement: “Persons with disabilities requiring assistive services or devices to observe or participate should contact the commission at 515.725.7300 in advance of the scheduled date to request accommodations”; and

(3) A copy of the statement of damage claims described in subrule 13.3(3), consistent with the Iowa Code.

b. The pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and persons in possession of or residing on the property, whose addresses are known after a good-faith effort to obtain the addresses. The certified meeting notice shall be deposited in the United States mail not less than 30 days prior to the date of the meeting.

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

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

13.2(6) *Personnel.* The pipeline company shall provide qualified personnel to present the following information at the informational meeting:

- a. Service requirements and planning that have resulted in the proposed project.
- b. When the pipeline is proposed to be constructed.
- c. In general terms, the elements involved in pipeline construction.
- d. In general terms, the rights the pipeline company will seek to acquire through easements.
- e. Procedures to be followed in contacting the affected persons for specific negotiations in acquiring voluntary easements.
- f. Methods and factors used in arriving at an offered price for voluntary easements, including the range of cash amount for each component.
- g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.
- h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.

13.2(7) *Notice to county board of supervisors.* The pipeline company is responsible for sending notice of the request for an informational meeting to the county board of supervisors in each county where the proposed pipeline is to be located. The pipeline company is to request from the board of supervisors the name of the county inspector, a professional engineer who will conduct the on-site inspection required by Iowa Code section 479B.20(2). The pipeline company will provide the name and contact information of the county inspector to the commission, landowners, and other affected persons at the meeting, if known.

199—13.3(479,479B) Petition for permit.

13.3(1) A petition for a permit shall be filed with the commission upon the form prescribed and shall include all required exhibits. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company. Exhibits shall be in the following form:

- a. *Exhibit A.* A legal description showing, at minimum:
 - (1) The beginning and ending points of the proposed pipeline.
 - (2) The general direction of the proposed route through each quarter section of land to be crossed, including township and range.
 - (3) Whether the proposed pipeline will be located on private or public property, public highway, or railroad right-of-way.
 - (4) Other pertinent information.
 - (5) When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.
- b. *Exhibit B.* Maps showing the proposed routing of the pipeline. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile, and shall be legible when printed on paper no larger than 11 by 17 inches. Maps based on satellite imagery are preferred. An additional map of the entire route, if the route is located in more than one county or there is more than one map for a county, shall be filed in this exhibit and shall be legible when printed on paper no larger than 11 by 17 inches without regard to scale. The pipeline company shall include necessary data files with geographic identifiers that are readable by common Internet or software mapping applications (KMZ, shapefile, JSON, etc.) showing the proposed route of the pipeline. The following minimum information shall be provided on the maps:
 - (1) The route of the pipeline that is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side the pipeline is on. Multiple pipelines on the same right-of-way shall be indicated, and the distance between paralleling pipelines shall be shown.
 - (2) The name of the county, county lines, section lines, section numbers, township numbers, and range numbers.
 - (3) The location and identity of adjacent or crossed public roads, railroads, named streams or bodies of water, and other pertinent natural or man-made features influencing the route.

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

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

(6) Any buildings or places of public assembly within six tenths of a mile of the pipeline.

c. *Exhibit C.* A showing of engineering specifications covering the engineering features, materials, and manner of construction of the proposed pipeline; its approximate length, diameter, and the name and location of each railroad and primary highway, if any; and such other information as may be deemed pertinent on forms prescribed by the commission, which are located on the commission's website. In addition, the maximum and normal operating pressure and maximum capacity of the proposed pipeline shall be provided.

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

e. *Exhibit E.*

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

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

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

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

f. *Exhibit F.* This exhibit will contain the following information:

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

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

1. The nature of the lands, waters, and public or private facilities to be crossed;

2. The possible use of alternative routes;

3. The relationship of the proposed pipeline to present and future land use and zoning ordinances;

and

4. The inconvenience or undue injury that may result to property owners as a result of the proposed project.

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

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

h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. The exhibit must be in final form prior to issuance of the official notice by the commission and approval of eminent domain notice. The exhibit will consist of a map of the route showing the location of each property for which the right of eminent domain is sought and the following information for each property:

- (1) The legal description of the property.
- (2) The legal description of the desired easement.
- (3) A specific description of the easement rights being sought.
- (4) The names and addresses of all affected persons for the property over which eminent domain is requested based upon a good faith effort to identify all affected persons.
- (5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the pipeline to the rights being sought.
- (6) An overview map showing the location of the property over which eminent domain is requested, with the property identified in accordance with 199—Chapter 9.
- (7) An updated electronic file with geographic identifiers as required by paragraph 13.3(1)“b” to show the locations and boundaries of the property and the easements boundaries for which the pipeline company is seeking eminent domain.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided for in rule 199—9.2(479,479B). The name and contact information of each county inspector designated by county boards of supervisors pursuant to Iowa Code section 479B.20(2) shall be included in the land restoration plan, when known.

j. Underground storage. If permission is sought to construct, maintain, and operate facilities for underground storage of hazardous liquid, the petition will include maps showing the information described in Iowa Code section 479B.4(2), as well as a description of the public or private highways, grounds, waters, streams, pipelines, and private lands of any kind under which the storage is proposed, together with a map.

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

- (1) An affidavit describing the good faith effort the company has undertaken to identify all affected persons in the property for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested. The affidavit shall be signed by an attorney or officer representing the pipeline company.
- (2) Whether any private easements will be required for the proposed pipeline and, if a private easement will be required, when the easement negotiations will be completed and whether all affected persons associated with the property have been notified.
- (3) Whether there are permits that will be required from other state agencies for the construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.
- (4) Whether there are permits from federal agencies that will be required for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.
- (5) Whether there are any agreements or additional facilities that need to be constructed to transport or receive hazardous liquids.
- (6) Projected date when construction of the pipeline will begin.

l. Exhibit L. Other exhibits. The commission may require filing of additional exhibits if further information on a particular project is deemed necessary.

13.3(2) Construction on an existing easement.

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

b. A petition for permit proposing a new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline will not be acted upon by the commission if a damage claim from the installation of the previous pipeline has not been resolved by negotiation, arbitration, or court action. The commission may take action on the petition if the damage claim is under litigation or arbitration.

13.3(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction will not be acted upon by the commission if the pipeline company does not file with the commission a written statement in compliance with Iowa Code sections 479.25, 479.45, 479.46, 479B.17, 479B.29, and 479B.30 as to how damages resulting from the construction of the pipeline will be determined and paid.

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

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

d. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479B.4. If no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

e. Nothing in this rule prevents a person from negotiating with the pipeline company for terms that are different, more specific, or in addition to the statement filed with the commission.

13.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing easements or from requesting and collecting tenant and affected person information, provided that the pipeline company is not “negotiating” as defined in subrule 13.1(3).

199—13.4(479,479B) Notice of hearing.

13.4(1) When a petition for permit is filed with the commission, the petition will be reviewed by the commission. Once the commission has completed its review of the proposed pipeline and petition, the petition may be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—13.8(479,479B), which may not require a hearing.

13.4(2) The pipeline company will be furnished copies of the official notice of hearing, which the pipeline company shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication cannot be less than 10 and no more than 30 days prior to the date of the hearing. Proof of publication will be filed with the commission prior to the hearing.

13.4(3) The published notice will include a map showing either the pipeline route or the area affected by underground hazardous liquid storage, or a telephone number and an address through which interested persons may obtain a copy of a map from the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy will be filed with the petition.

13.4(4) If a petition for permit seeks the right of eminent domain, the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing on the landowners and any affected person with an interest in the property over which eminent domain is sought. A copy of the Exhibit H filed with the commission for the affected property will accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to the person’s last-known address, and this notice shall be mailed no later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the pipeline company will file with the commission a certificate of service showing all persons and addresses to which notice was sent by certified mail, the date of the mailing, and an affidavit that all affected persons were served.

13.4(5) If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained sixty days prior to the hearing, a copy of the notice of hearing shall be served upon any affected person with interests in the property. Service shall be by certified mail, addressed to the last-known address, and mailed no later than the first day of publication of the official

notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all persons to whom the notice was mailed, the date of mailing, and an affidavit that all affected persons were served, will be filed with the commission not less than five days prior to the hearing.

199—13.5(479,479B) Objections. Any person whose rights or interests may be affected by a proposed pipeline or underground storage facility may file a written objection with the commission consistent with Iowa Code sections 479.9 and 479B.7.

199—13.6(479,479B) Hearing. Hearings required under this chapter will comply with Iowa Code chapter 17A and sections 479.7 and 479B.6 and 199—Chapter 7.

199—13.7(479,479B) Pipeline permit.

13.7(1) A pipeline permit will be issued once an order granting the permit is final and the compliance requirements have been met. A pipeline company may request commission approval to delay obtaining consent to cross railroad rights-of-way until after the pipeline permit is issued.

13.7(2) The issuance of the permit authorizes construction on the route or location as approved by the commission, subject to deviation within the permanent route easement right-of-way. If a deviation outside the permanent route easement right-of-way becomes necessary, construction of the line in that location shall be suspended and the pipeline company will follow the procedures for filing a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, C, E, and F, as described in rule 199—13.3(479,479B), reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company may only commence construction on an amended route approved by the commission after the pipeline company acquires the necessary easement. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the commission, and a hearing will not be required unless the commission determines a hearing is necessary to complete a review of the petition for amendment.

13.7(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit or of condemnation proceedings, the permit may be forfeited unless the commission grants an extension of the permit filed prior to the expiration of the two-year period.

13.7(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with 199—Chapter 9, and revised Exhibits A, B, and C, will be filed with the commission.

13.7(5) The commission will set the term of the permit. The term of the permit may be less than but will not exceed 25 years from the date of issuance.

199—13.8(479,479B) Renewal permits.

13.8(1) A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit but no later than one year prior to expiration of the permit. The petition will be made on the forms prescribed by the commission. Instructions for the petition are included as part of the form, which is available on the commission's website. The petition shall include the name of the pipeline company requesting renewal of the permit, the pipeline company's principal office and place of business, a description of any amendment or reportable change since the permit or previous renewal permit was issued, and Exhibits A, B, C, and D, as described in rule 199—13.3(479,479B). The commission may request additional information be filed during the review of the renewal petition and exhibits. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company.

13.8(2) The procedure for a petition for permit will be followed with respect to publication of notice, objections, and assessment of costs.

13.8(3) If there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the commission may set the matter for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication as required by rule 199—13.4(479,479B).

13.8(4) The commission will set the term of a renewal permit. The term may be less than but will not exceed 25 years from the date of issuance. The same procedure will be followed in subsequent renewals.

199—13.9(479,479B) Amendment of permits.

13.9(1) An amendment of a pipeline permit by the commission is required in any of the following circumstances:

- a.* Construction of an additional pipeline paralleling all or part of an existing pipeline of the pipeline company with a valid permit.
- b.* Extension of an existing pipeline of the pipeline company outside of the permitted permanent route easement.
- c.* Relocation or replacement of an existing pipeline of the pipeline company that:
 - (1) Relocates the pipeline outside of the permitted permanent route easement approved by the commission; or
 - (2) Involves relocation or replacement requiring new or additional interests in property. If the relocation or replacement is for five miles or more of pipe to be operated in excess of 150 pounds per square inch gauge, an informational meeting, as provided in rule 199—13.2(479,479B), will be held.
- d.* Contiguous extension of an underground storage area of the pipeline company.
- e.* Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit or previous renewal of the permit.

13.9(2) Petition for amendment.

- a.* The petition for amendment shall include the docket number and issue date of the permit for which amendment is sought and clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities, or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.
- b.* The applicable procedures for petition for permit, including hearing, will be followed. Upon appropriate determination by the commission, an amendment to a permit may be issued. The amendment will be subject to the same conditions with respect to commencement of construction within two years and the filing of final routing maps as required for pipeline permits.

199—13.10(479,479B) Fees and expenses. The pipeline company will pay the actual unrecovered cost incurred by the commission attributable to the informational meeting, processing, investigation, hearing, inspection related to a petition requesting a pipeline permit, and any other activity of the commission related to a pipeline permit, pursuant to 199—Chapter 17.

199—13.11(479,479B) Land restoration. Pipelines shall be constructed in compliance with Iowa Code sections 479.29 and 479B.20 and 199—Chapter 9.

199—13.12(479,479B) Crossings of highways, railroads, and rivers.

13.12(1) Iowa Code chapters 479 and 479B give the commission primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, rivers, or other bodies of water.

13.12(2) Approval of other authorities need not be obtained prior to petitioning the commission for a pipeline permit. The pipeline company will file with the petition information that shows the pipeline company contacted the other necessary authorities in advance of filing the petition to determine what restrictions or conditions may be placed on the crossing by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities that may impact the routing of the pipeline. Approvals and any restrictions, conditions, or relocations of existing facilities are required to be filed with the commission prior to the grant of the permit. A pipeline company may request commission approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

13.12(3) Pipeline routes that include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, will not be constructed unless a showing of consent by the appropriate authority has been provided by the pipeline company as required in paragraph 13.3(1) “e.”

199—13.13(479,479B) Reportable changes to pipelines under permit.

13.13(1) A pipeline company shall file prior notice with the commission of any of the following actions affecting a pipeline under permit:

- a. Abandonment or removal from service. The pipeline company will also notify the landowners of the abandonment or removal of the pipeline from service.
- b. Pressure test or increase in maximum allowable operating pressure.
- c. Replacement of a pipeline or significant portion thereof that meets or exceeds the minimum strength criteria of the original pipe.

13.13(2) The notice shall include the docket and permit numbers of the pipeline; the location involved; a description of the proposed activity; anticipated dates of commencement and completion; revised maps and facility descriptions, where appropriate; and the name and telephone number of a person to contact for additional information.

199—13.14(479,479B) Sale or transfer of permit.

13.14(1) No permit shall be sold or transferred without written approval of the commission. A petition for approval of the sale or transfer shall be jointly filed by the buyer, or transferee, and the seller, or transferor, and shall include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa and is willing and able to construct, operate, and maintain the pipeline in accordance with these rules. If the sale, or transfer, is prior to completion of construction of the pipeline, the buyer, or transferee, shall demonstrate it has the financial ability to pay, for damages associated with construction or operation of the pipeline, up to \$250,000 or any other amount the commission determined necessary when granting the permit.

13.14(2) The reassignment of a pipeline permit as part of a name change or a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer for the purposes of this rule.

199—13.15(479,479B) Reports to federal agencies.

13.15(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 195, a pipeline company shall file a copy of the report with the commission. The commission shall be advised of any telephonic incident report made by the pipeline company. The pipeline company will notify the commission, as soon as possible, of any incident by emailing the commission duty officer at dutyofficer@iuc.iowa.gov or, if email is not available, by calling the commission duty officer at 515.745.2332.

13.15(2) Pipeline companies operating in other states will provide the commission data for Iowa only.

199—13.16(479,479B) Termination of petition for pipeline permit proceedings. If a pipeline company fails to correct an identified deficiency within six months after written notification by the commission, or after such shorter period as the commission may specify in the written notification, to cure an incomplete or deficient permit petition, or a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the commission, the commission may dismiss the petition.

These rules are intended to implement Iowa Code chapters 479 and 479B.

[Filed 1/27/25, effective 3/26/25]

[Published 2/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.

ARC 8900C**UTILITIES COMMISSION[199]****Adopted and Filed****Rulemaking related to ratemaking principles proceeding**

The Utilities Commission hereby rescinds Chapter 41, “Ratemaking Principles Proceeding,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 476.2, 476.53 and 476.84.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.53 and 476.84.

Purpose and Summary

The purpose of this chapter is to execute Iowa Code sections 476.53 and 476.84 by providing a procedure for utility companies to request ratemaking principles for electric power generating facilities, alternate energy production facilities, sanitary sewer facilities, and storm water facilities.

The Commission issued an order adopting amendments on January 15, 2025. The order is available on the Commission’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0041.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8213C**. A public hearing was held on the following date(s):

- October 29, 2024
- November 12, 2024

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and Iowa-American Water Company attended and were supportive of the proposed rulemaking. Written comments were received from the OCA, Environmental Law and Policy Center, and Iowa Environmental Council. The written comments were supportive of the rulemaking.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on January 15, 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

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 March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 41 and adopt the following **new** chapter in lieu thereof:

CHAPTER 41
RATEMAKING PRINCIPLES PROCEEDING

199—41.1(476) Definitions. The following terms, when used in these rules, shall have the meanings set forth in Iowa Code sections 476.42 and 476.72: “affiliate,” “alternate energy production facility,” and “control.”

In addition, as used in this chapter, the following definitions shall apply:

“*AFUDC*” means allowance for funds used during construction.

“*Baseload generation*” means generating units designed for normal operation to serve all or part of the minimum load of the system on an around-the-clock basis. These units are operated to maximize system mechanical and thermal efficiency and minimize system operating costs.

“*Combined-cycle combustion turbine*” means an electric generating technology in which the efficiency of electric generation is increased by using otherwise lost waste heat exiting from one or more combustion turbines. The exiting heat is routed to a boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity.

“*Emission allowance*” means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide during or after a specified calendar year.

“*Facility*” means a facility for which advance ratemaking principles may be sought pursuant to Iowa Code section 476.53(3) “a.” The term includes energy storage systems located at the site of an alternate energy production facility.

“*kWh*” means kilowatt-hour.

“*Opportunity sales*” means sales of electricity from a particular facility at market price after all contracted and firm transactions have been met.

“*Repowering*” means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.

“*RTO*” means Regional Transmission Organization, which is a federally regulated entity that manages the electric power transmission system.

199—41.2(476) Applicability and purpose.

41.2(1) Rules 199—41.3(476) and 199—41.4(476) apply to any rate-regulated public electric utility proposing to build or lease in Iowa, either in whole or in part, a new baseload generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a new combined-cycle combustion turbine of any size, a new or repowered alternate energy production facility of any size, or any combination of the above, and desiring predetermination of ratemaking principles to be used in

establishing the retail cost recovery of such a facility. These rules set the initial filing requirements in a ratemaking principles proceeding depending on the specific circumstances of a filing.

41.2(2) Rule 199—41.5(476) applies to any rate-regulated public utility acquiring a water, sanitary sewage, or storm water system with a purchase price of \$3,000,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3).

199—41.3(476) Application for predetermined ratemaking principles; contents. Each person or group of persons proposing to construct, repower, or lease a facility and desiring predetermination of ratemaking principles for costing that facility shall file an application with the commission. An application may be for one facility or a combination of facilities necessary to meet the current and future resource needs of the utility. An application for ratemaking principles must demonstrate that the utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. At a minimum, an application shall substantially comply with the following informational requirements to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The commission will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

41.3(1) General information. An application shall include the following general information:

- a. The purpose of the proposed facility.
- b. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchased power contracts with respect to the proposed facility.
- c. For a baseload electric power generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a combined-cycle electric power generating facility, or repowering of a facility, a general site description, including a legal description of the site; a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions; and prominent features, such as cities, lakes, rivers, and parks within the site impact area. For an alternative energy production facility, to the extent feasible, a general site description, including a description of the site location or locations; map(s) showing the coordinates of the site(s) and location(s) with respect to state, county, and other political subdivisions; and prominent features, such as cities, lakes, rivers, and parks within the site impact area(s).
- d. A general description of the proposed facility, including a description of the expected principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contract maximum generator megawatt rating, the expected net facility addition to the system in megawatts by net to the busbar rating, and the portion of the design capacity, in megawatts, of the proposed facility that is proposed to be available for use by each participant; the expected number and type of generating units; the primary fuel source for each such unit; the annual expected availability of the generation facility; the expected capacity factors; the expected accredited capacity of the facility, consistent with the accreditation methodology of the RTO; a description of the expected general arrangement of major structures and equipment to provide the commission with an understanding of the general layout of the facility; and a projected schedule for the facility's construction and utilization, including the projected date when a significant site alteration is proposed to begin and the projected in-service date of the facility and the projected date when accredited capacity for the facility will be recognized by the RTO. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available are considered a single unit.
- e. A general description of the raw materials, including fuel, used by the proposed facility in producing electricity and of the wastes created in the production process; a determination of the annual expected emissions from the facility; a plan for acquiring allowances sufficient to offset these emissions; a description of all transportation facilities currently operating that will be available to serve the proposed facility; and any additional transportation facilities needed to deliver raw materials and to remove wastes.

f. An identification, general description, and chronology of all material financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.

g. A general map and description of the primary transportation corridors and the approximate routing of the rights-of-way in the vicinity of the settled areas, parks, recreational areas, and scenic areas.

h. An explanation of the selection process used to determine a prudent interconnect location of the facility, including consideration of existing transmission capability, lead time, and cost for requisite upgrades for interconnection.

i. Identification of the general contractor for the proposed facility and the method by which the general contractor was selected. If a general contractor has not yet been selected, the utility will identify the process by which the general contractor will be selected and the anticipated timeline for selecting a general contractor.

j. Identification of the plant operator for the proposed facility and the method by which the plant operator was selected. If a plant operator has not yet been selected, the utility will identify the process by which a plant operator will be selected and the anticipated timeline for selecting a plant operator.

41.3(2) *Economic evaluation of proposed facility.* An application shall include an overall economic evaluation of the proposed facility using conventional capital evaluation techniques and the proposed ratemaking principles. The economic evaluation shall include:

a. Material assumptions used in the analysis.

b. Net present value calculations. This includes projected annual and total net present value calculations of projected revenue requirements and capital costs over the expected life of the proposed facility. If a traditional revenue requirement analysis does not account for revenue-sharing arrangements, riders, or other mechanisms that impact Iowa retail customer bills, the utility will also provide projected annual and total net present value calculations that show the impact on amounts that will actually be paid by Iowa retail customers accounting for such mechanisms. To the extent the utility has projected revenue deficiencies within the period of analysis, the utility will also provide the estimated effect the proposed facility will have on these calculations. In making these calculations, the utility will detail the following cost assumptions:

(1) Installed cost. This includes an itemized statement of the estimated total costs to construct the proposed facility. Such estimated costs include but are not limited to the estimated cost of all electric power generating units; all electric supply lines within the proposed facility site boundary; all electric supply lines beyond the proposed facility site boundary with a voltage of 69 kilovolts or higher used for transmitting power from the proposed facility to the point of junction with the distribution system or with the interconnected primary transmission system; all appurtenant or miscellaneous structures used and useful in connection with the proposed facility or any part thereof; all rights-of-way, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility; engineering and development; sales taxes; and AFUDC (if applicable). The estimated costs of all electric power generating units shall include all estimated costs of transmission and gas interconnection (if applicable). Estimated facility costs shall be expressed in absolute terms and in dollars per kilowatt. The absolute and per-kilowatt estimated construction costs shall be adjusted by the expected rate of inflation from the time the estimated construction costs are calculated to the time the proposed facility is scheduled for operation.

(2) Fixed expenses. For each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life, the utility will include projected expense factors for fixed operation and maintenance costs; property, income, and other taxes; and straight-line and tax depreciation rights.

(3) Variable expenses. For each year of the proposed facility's expected life from the scheduled time of operation to the end of the proposed facility's expected life, the utility will include expected variable operation and maintenance costs, including the cost of fuel and emission allowances. These expected costs will be reported in absolute terms and on a kWh basis, assuming expected annual capacity factors for the proposed facility.

c. Cost of capital. This includes projected costs of capital for the proposed facility for each year of the proposed facility's expected life from the time of application to the end of the proposed facility's

expected life. The utility will provide material assumptions used in the projections, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

d. Cash flows. This includes the estimated maximum, minimum and expected cash inflows and outflows associated with the proposed facility in each year from the date of the application throughout the proposed facility's expected life.

41.3(3) *Risk mitigation factors.* At a minimum, the utility will include in an application the following information regarding contractual risk mitigation factors:

a. Construction risk mitigation factors. This includes a general description of the contractual standards that the general contractor, if not the utility, must comply with to mitigate construction risks, including but not limited to cost overruns, labor shortages, failure to meet deadlines, and the need for replacement power if operational deadlines are not met. If the facility will be leased by the utility, the utility will identify the above factors for both the lessor and the general contractor constructing the facility. The general description shall include all remedies, financial and otherwise, available to the utility for noncompliance with the construction standards and schedules.

b. Operational risk mitigation factors. This includes a general description of the contractual standards that the general contractor or the plant operator, if not the utility, must comply with to mitigate operational risks of the facility, including but not limited to low-availability factor and higher-than-expected operation and maintenance costs. The general description shall include a list of all contractual inspections the general contractor must meet before the utility leases or takes ownership of the facility and all remedies, financial and otherwise, available to the utility for noncompliance with the operating standards. If the utility leases the facility from an affiliate, the lease shall contain specific performance standards that the affiliate must meet to avoid financial consequences.

41.3(4) *Noncost factors.* This includes a comparison of the proposed facility with other feasible sources of supply related to the following noncost factors:

a. Economic impact to the state and community where the facility is proposed to be located, including job creation, taxes, and use of state resources.

b. Environmental impact to the state and community where the facility is proposed to be located.

c. Electric supply reliability and security in the state.

d. Fuel diversity and use of nontraditional supply sources, such as alternate energy and conservation.

e. Efficiency and control technologies.

41.3(5) *Filing requirements for proposed ratemaking principles.* Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient evidence to justify the use of such principles in costing the facility for regulated retail rate recovery.

a. Cost of equity. Proposals for establishing the cost of equity shall be supported with analyses that demonstrate the reasonableness of the proposed equity rate for the proposed facility. If sufficient information is available, the analyses shall include a comparison with similar facilities built in the region in recent years.

b. Depreciable life. Proposals for establishing the depreciable life of the facility shall be supported by commission precedent for the depreciable lives of similar facilities, the manufacturer's opinion of depreciable life, the applicant's general depreciation study or analysis, or an engineering study of the depreciable life of the type of facility proposed.

c. Jurisdictional allocations. Proposals for allocating the cost or output of the proposed facility among jurisdictions shall be supported by jurisdictional allocation studies or recent commission-ordered or commission-approved allocations for the applicant.

41.3(6) *Additional application requirements for leasing arrangements.* The following additional information shall be filed when a utility is proposing an arrangement in which the utility leases a facility from an affiliate or an independent third party:

a. Identification of the method used in selecting the affiliate or independent third party to build the facility (competitive solicitation, sole source, etc.).

b. A copy of the lease agreement.

- c. A detailed description of the lease agreement, including but not limited to the following:
 - (1) Commitment of capacity from the proposed facility to the utility under the lease agreement.
 - (2) Description of the final disposition of the leased facility at the end of the lease arrangement, including any options available to the utility and the terms of those options.
 - (3) Identification of the party responsible for operating, dispatching, and maintaining the facility.
 - (4) Identification of the party responsible for the cost of capital improvements, renewals and replacements, environmental compliance, taxes, and all other future costs associated with the facility.
 - (5) Identification of the party responsible for contracting capacity from the proposed facility.
 - (6) Identification of the party benefiting from revenues received through contracted capacity and opportunity sales.
- d. If the lessor is an affiliate, a detailed description of the affiliate, including the affiliate's corporate structure and the utility's ownership stake in the affiliate, if any.
- e. If the lessor is an affiliate, identification of utility assets transferred to the affiliate for use by the proposed facility and the cost at which those assets were transferred.
- f. If the lessor is an affiliate, identification of any financial benefits and cost savings, including any tax advantages, accruing to the utility from leasing an affiliate-owned facility versus building a facility itself.

199—41.4(476) Coincident filing. The utility may file its application for ratemaking principles, as required by this chapter, coincident with the utility's application for a certificate of public convenience, use, and necessity under 199—Chapter 24. Identical information required by both chapters need only be included once in a joint principles and certification application.

199—41.5(476) Acquisition of a water, sanitary sewage, or storm water utility. A rate-regulated public utility proposing to acquire, in whole or in part, a water, sanitary sewage, or storm water system with a purchase price of \$3,000,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) shall file an application for approval of the acquisition with the commission. If the acquisition is approved, ratemaking principles that will apply when the costs of the acquisition are included in regulated rates will be determined as part of the commission's review of the application. At a minimum, an application made under this rule shall substantially comply with the following informational requirements, to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The commission will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

41.5(1) General information. An application shall include the following general information:

- a. A general description of the system to be acquired, including the total number of customers, a description of the general arrangement of major structures and equipment, maps of the system, and a general description of the scope of the system.
- b. The identification and general description of all material capital investments and operating expenses associated with the proposed acquisition anticipated within five years of the date of the acquisition.
- c. A proposed procedural schedule that, at a minimum, provides proposed dates for direct testimony, rebuttal testimony, and a hearing for cross-examination of all testimony. The proposed schedule should generally comply with the commission's procedural rules in 199—Chapter 7.

41.5(2) Acquisition information. An application shall include the following information related to the acquisition:

- a. If a city utility is being acquired, an affirmation that the city has timely and substantially complied with the requirements of Iowa Code section 476.84(2) "a."
- b. Final fair market value of the system.
- c. The final price for the system.
- d. Final reports of appraisals.

- e.* Financial information sheets, which include information about the utility system being acquired (the cost of appraisals and closing costs), regulatory expenses, and legal expenses.
- f.* The proposed purchase agreement.

41.5(3) *Impact of acquisition.* An application shall include the following information related to the acquired system and its potential impact on the acquiring utility:

- a.* If the acquired system is not in compliance with applicable local, state, or federal standards, estimates of the approximate cost and time required to put the system in compliance with such standards.
- b.* A description of anticipated capital investments and retirements for the acquired system, including estimated dollar amounts, for each of the first five years after the acquisition.
- c.* Any anticipated staffing changes due to the proposed acquisition.
- d.* A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish the acquisition.
- e.* A description of the anticipated effects of the acquisition, including a cost-benefit analysis that describes the projected benefits and costs of the acquisition, quantified in terms of present value and identifying the sources of such benefits and costs.
- f.* An analysis of the projected financial impact of the acquisition on the ratepayers of each of the affected utilities for each of the first five years after the acquisition.
- g.* Historical and projected fixed expenses for the acquired system, including expense factors for fixed operation and maintenance costs.
- h.* Historical and projected variable expenses for the acquired system, including expected variable operation and maintenance costs.
- i.* The estimated maximum, minimum, and expected cash inflows and outflows for the acquired system.
- j.* A description of the financing components of the acquisition and an analysis of the impacts on the acquiring utility's ability to attract capital on reasonable terms and to maintain a reasonable capital structure.

41.5(4) *Ratemaking principles.* Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient information to justify the use of such principles.

a. Cost of equity. The utility shall file financial models demonstrating the proposed equity rate or range of equity rates necessary to attract equity capital for the proposed acquisition. The financial analysis shall include a risk assessment of the proposed acquisition, including a comparison with similar acquisitions.

b. Ratepayer allocations. Proposals for allocating the cost of the acquired system and anticipated improvements to customers of the acquired system and the utility's existing customers shall include information showing that the proposed allocation will result in rates that are just and reasonable for both groups of customers.

c. Initial depreciable value. Proposals for establishing the value of the acquired system to be used as the initial gross asset balance for depreciation shall be supported by the lesser of the sale price or the fair market value of the system as determined consistent with Iowa Code section 388.2A(2) "b." The utility shall also provide the accumulated depreciation balances for the assets.

d. Depreciable life. Proposals for establishing rates that will be used to depreciate the acquired system shall be supported by a depreciation study or by depreciation rates applied in the utility's last general rate case.

41.5(5) *At-risk systems.* An application shall state whether the system to be acquired is an at-risk system as defined by Iowa Code section 455B.199D. If the commission determines that an application to acquire an at-risk system does not contain sufficient information consistent with this rule to render a timely decision, the commission may reject the application without prejudice.

41.5(6) *Expedited timeline.* The shortened time limits applicable to expedited proceedings in 199—Chapter 7 shall apply to proceedings commenced under this rule.

These rules are intended to implement Iowa Code sections 476.53 and 476.84.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/25.