



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking—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 Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, April 7, 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:

NOTE: See also Supplemental Agenda published in the April 2, 2025, Iowa Administrative Bulletin.

AGING, DEPARTMENT ON[17]

Commission on aging; aging and disability resource center, rescind chs 3, 23 Notice **ARC 9003C** 3/19/25

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Agency realignment, rescind chs 1, 6 to 16, 20 to 23, 25 to 27, 29 to 33, 35, 36, 50 to 52 Filed **ARC 8981C** 3/5/25

EDUCATION DEPARTMENT[281]

Accredited schools and school districts—parental rights, age-appropriate library programs, gender identity and sexual orientation, 12.3 Filed **ARC 8982C** 3/5/25
Dual enrollment, 31.5(4) Filed **ARC 8983C** 3/5/25

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Local emergency management, ch 7 Notice **ARC 9019C** 3/19/25
Criteria for awards or grants, ch 8 Notice **ARC 9020C** 3/19/25
Mass notification and emergency messaging system, ch 15 Notice **ARC 9017C** 3/19/25

HUMAN SERVICES DEPARTMENT[441]

Disability services management; alternative diagnostic facilities; definitions; behavioral health service system eligibility and services; behavioral health administrative service organizations; district behavioral health advisory councils; mental health advocates; data collection, rescind chs 25, 34; adopt chs 300 to 302, 304, 305, 310 Notice **ARC 9016C** 3/19/25
Policies for mental health institutes and resource center; mental health institutes; state resource center, chs 28 to 30 Notice **ARC 9005C** 3/19/25
Specialized managed care programs, ch 88 Amended Notice **ARC 9006C** 3/19/25
Child care centers, ch 109 Filed **ARC 9021C** 3/19/25
Disability services definitions; disability services advisory councils; disability services; aging and disability resource centers; data collection, chs 221 to 224, 229 Notice **ARC 9018C** 3/19/25

INSPECTIONS AND APPEALS DEPARTMENT[481]

Administration, ch 1 Notice **ARC 9001C** 3/5/25
Health care employment agencies and health care technology platforms, amendments to ch 55 Filed **ARC 9022C** ... 3/19/25
Standards—practice of pharmacy, ch 552 Amended Notice **ARC 8978C** 3/5/25
Iowa prescription monitoring program, ch 556 Amended Notice **ARC 8979C** 3/5/25
Dental board administration, ch 570 Filed **ARC 8984C** 3/5/25
Dental board fees, ch 571 Filed **ARC 8985C** 3/5/25
Dental licensure, registration, renewal, reactivation and reinstatement, ch 572 Filed **ARC 8986C** 3/5/25
Dental continuing education, ch 573 Filed **ARC 8987C** 3/5/25
General requirements and standards of practice, ch 574 Filed **ARC 8988C** 3/5/25
Dental assistants, dental radiography qualifications, and dental laboratory technicians, ch 575 Filed **ARC 8989C** ... 3/5/25
Dental hygienists, ch 576 Filed **ARC 8990C** 3/5/25
Expanded functions, ch 577 Filed **ARC 8991C** 3/5/25
Prescribing, administering, and dispensing drugs, ch 578 Filed **ARC 8992C** 3/5/25
Sedation and nitrous oxide, ch 579 Filed **ARC 8993C** 3/5/25
Dental board complaints and investigations, ch 580 Filed **ARC 8994C** 3/5/25
Dental board discipline, ch 581 Filed **ARC 8995C** 3/5/25
Continuing education for barbering and cosmetology arts and sciences, 944.2(5) Notice **ARC 9002C** 3/19/25
Licensure of hearing aid specialists, ch 2060 Notice **ARC 8977C** 3/5/25
Continuing education for hearing aid specialists, 2061.2(1) Notice **ARC 8975C** 3/5/25

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]
Description of organization, ch 1 Filed **ARC 9023C** 3/19/25
Registration, ch 2 Filed **ARC 9024C** 3/19/25
Continuing education, ch 3 Filed **ARC 9025C** 3/19/25

Grounds for discipline, disciplinary investigations, and disciplinary proceedings, ch 5 Filed **ARC 9026C** 3/19/25
 Disciplinary investigations, rescind ch 6 Filed **ARC 9027C** 3/19/25
 Disciplinary proceedings, rescind ch 7 Filed **ARC 9028C** 3/19/25

IOWA FINANCE AUTHORITY[265]

Red tape review, rescind chs 2, 4, 30, 32, 37, 38 Filed **ARC 9029C** 3/19/25
 Title guaranty division, ch 9 Filed **ARC 9030C** 3/19/25
 Public records and fair information practices, ch 13 Filed **ARC 9031C** 3/19/25
 State housing trust fund, ch 19 Filed **ARC 9032C** 3/19/25

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Contribution rates; proof of date of birth, 4.6, 11.1(1)"a" Notice **ARC 9046C** 3/19/25

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

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PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; infection control for barbershops and barber schools; barber schools; continuing education for barbers;
 discipline for barbers, barber instructors, barbershops and barber schools, rescind chs 21 to 25 Notice **ARC 9007C** 3/19/25

PUBLIC SAFETY DEPARTMENT[661]

Flammable or combustible liquids; aboveground flammable or combustible liquid storage tanks, adopt ch 221;
 rescind ch 224 Notice **ARC 8976C** 3/5/25
 Standards for electrical work; electrical inspection program—organization and administration, definitions, permits
 and inspections, utility notifications and responsibilities of utilities; civil penalties, rescind chs 504, 550 to 553,
 559; adopt ch 550 Filed **ARC 9033C** 3/19/25

REVENUE DEPARTMENT[701]

Administration of cigarette, tobacco, vapor products, and alternative nicotine products, adopt ch 230; rescind ch
 254 Filed **ARC 9038C** 3/19/25
 Cigarette tax and regulation of delivery sales of alternative nicotine products or vapor products, adopt ch 231;
 rescind ch 255 Filed **ARC 9039C** 3/19/25
 Tobacco tax, adopt ch 232; rescind ch 256 Filed **ARC 9040C** 3/19/25
 Unfair cigarette sales, adopt ch 233; rescind ch 257 Filed **ARC 9041C** 3/19/25
 Tobacco master settlement agreement, adopt ch 234; rescind ch 258 Filed **ARC 9042C** 3/19/25
 Administration of marijuana and controlled substance stamp tax, adopt ch 240; rescind ch 269 Filed **ARC 9044C** ... 3/19/25
 Vehicles subject to registration, ch 250 Filed **ARC 9034C** 3/19/25
 Automobile rental excise tax, ch 251 Filed **ARC 9035C** 3/19/25
 State-imposed water service excise tax, ch 252 Filed **ARC 9036C** 3/19/25
 State-imposed and locally imposed hotel and motel taxes, ch 253 Filed **ARC 9037C** 3/19/25
 Fuel tax administration, motor fuel and undyed special fuel, liquefied petroleum gas—compressed natural gas—
 liquefied natural gas—hydrogen, electric fuel excise tax, chs 259 to 262 Filed **ARC 9043C** 3/19/25

TRANSPORTATION DEPARTMENT[761]

RISE program, ch 163 Filed **ARC 9008C** 3/19/25
 Recreational trails program, ch 165 Filed **ARC 9009C** 3/19/25
 Project cost reporting requirements for cities and counties, ch 178 Filed **ARC 9010C** 3/19/25
 Motor vehicles operated by an automated driving system, ch 380 Filed **ARC 9011C** 3/19/25
 Salvage and other title designations, ch 405 Filed **ARC 9012C** 3/19/25
 Persons with disabilities parking permits, ch 411 Filed **ARC 9013C** 3/19/25
 Abandoned vehicles, ch 480 Filed **ARC 9014C** 3/19/25
 Motorized bicycle rider education, ch 636 Filed **ARC 9015C** 3/19/25

UTILITIES COMMISSION[199]

Regulation of telecommunications service, ch 22 Filed **ARC 8996C** 3/5/25
 Iowa electrical safety code, ch 25 Filed **ARC 9045C** 3/19/25
 Equipment distribution program, ch 37 Filed **ARC 8997C** 3/5/25
 Local exchange competition, ch 38 Filed **ARC 8998C** 3/5/25
 Universal service, ch 39 Filed **ARC 8999C** 3/5/25

Certificates of franchise authority for cable and video service, ch 44 Filed **ARC 9000C** 3/5/25

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.

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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
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Senate District 14

Representative Mike Sexton
House District 7

Senator Cindy Winckler
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AGING, DEPARTMENT ON[17]

Commission on aging; aging and
disability resource center,
rescind chs 3, 23
IAB 3/19/25 **ARC 9003C**

Microsoft Teams
Meeting ID: 246 390 422 665
Passcode: C4Y3tQ7s

April 8, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 226 946 205 399
Passcode: f4dq3nM7

April 8, 2025
11 a.m. to 12 noon

COLLEGE STUDENT AID COMMISSION[283]

Future ready Iowa skilled
workforce last-dollar scholarship
program, ch 15; Iowa work-
study program, ch 18; debt
collection, ch 37
IAB 3/19/25

Room B50
Grimes State Office Building
Des Moines, Iowa

April 8, 2025
4 p.m.

Regulatory Analyses

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

State Board Room
Grimes State Office Building
Des Moines, Iowa

March 26, 2025
4 p.m.

Regulatory Analysis**EDUCATION DEPARTMENT[281]**

Charter schools, 19.9; regional
career and technical education
partnership—state funds,
46.10(6)
IAB 3/19/25

Room B100
Grimes State Office Building
Des Moines, Iowa

April 8, 2025
8 to 8:45 a.m.

Regulatory Analyses**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Local emergency mgmt., ch 7
IAB 3/19/25 **ARC 9019C**

Geode Room
7900 Hickman Road
Windsor Heights, Iowa
Via videoconference call:
meet.google.com/oqm-wujn-dif
Or dial: 1.475.277.0077
PIN: 619 998 977#

April 8, 2025
9:30 a.m.

April 9, 2025
9:30 a.m.

Criteria for awards or grants, ch 8
IAB 3/19/25 **ARC 9020C**

Geode Room
7900 Hickman Road
Windsor Heights, Iowa
Via videoconference call:
meet.google.com/oqm-wujn-dif
Or dial: 1.475.277.0077
PIN: 619 998 977#

April 8, 2025
9 a.m.

April 9, 2025
9 a.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

Mass notification and emergency messaging system, ch 15 IAB 3/19/25 ARC 9017C	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via videoconference call: meet.google.com/oqm-wujn-dif Or dial: 1.475.277.0077 PIN: 619 998 977#	April 8, 2025 8:30 a.m. April 9, 2025 8:30 a.m.

HUMAN SERVICES DEPARTMENT[441]

Disability services management; alternative diagnostic facilities; definitions, behavioral health—service system eligibility and services, administrative service organizations, district advisory councils; mental health advocates, data collection, rescind chs 25, 34, adopt chs 300 to 302, 304, 305, 310; policies for mental health institutes and resource center; mental health institutes; state resource center, chs 28 to 30 IAB 3/19/25 ARCs 9005C, 9016C	Microsoft Teams Meeting ID: 269 346 023 061 Passcode: rB6xd97g Microsoft Teams Meeting ID: 287 225 010 706 Passcode: qB6f8ic6	April 8, 2025 1 to 2 p.m. April 8, 2025 3 to 4 p.m.

Medicaid for employed people with disabilities program—premium amounts, 75.1(39) “b”(3) IAB 3/19/25 Regulatory Analysis	Microsoft Teams Meeting ID: 285 090 102 852 Passcode: xo9b9xv6	April 8, 2025 2:30 to 3 p.m.

Specialized managed care programs, ch 88 IAB 3/19/25 ARC 9006C	Microsoft Teams Meeting ID: 285 090 102 852 Passcode: xo9b9xv6 Microsoft Teams Meeting ID: 295 681 622 690 Passcode: wx7Nh7xv	April 8, 2025 2:30 to 3 p.m. April 8, 2025 4 to 4:30 p.m.

Disability services definitions; disability services advisory councils; disability services; aging and disability resource centers; data collection, chs 221 to 224, 229 IAB 3/19/25 ARC 9018C	Microsoft Teams Meeting ID: 246 390 422 665 Passcode: C4Y3tQ7s Microsoft Teams Meeting ID: 226 946 205 399 Passcode: f4dq3nM7	April 8, 2025 10 to 11 a.m. April 8, 2025 11 a.m. to 12 noon

INSPECTIONS AND APPEALS DEPARTMENT[481]

Administration, ch 1 IAB 3/5/25 ARC 9001C	6200 Park Avenue Des Moines, Iowa	March 25, 2025 10:30 to 11 a.m. March 26, 2025 10 to 10:30 a.m.

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

Uniform waiver standards, ch 6 IAB 3/5/25 Regulatory Analysis	6200 Park Avenue, Suite 100 Des Moines, Iowa	March 25, 2025 10:30 a.m.
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.
Licensure of physician assistants, ch 780 IAB 3/5/25 Regulatory Analysis	6200 Park Avenue, Suite 100 Des Moines, Iowa	March 25, 2025 8:30 a.m.
Licensure of occupational therapists and occupational therapy assistants, ch 804 IAB 3/19/25 Regulatory Analysis	6200 Park Avenue Des Moines, Iowa Google Meet: meet.google.com/ea-sciu-vjz Or dial: 1.574.440.8035 PIN: 895 818 900# More phone numbers: tel.meet/ea-sciu-vjz?pin=1641821153114	April 9, 2025 12 noon to 12:30 p.m.
Hearing aid specialists—licensure, continuing ed., ch 2060, 2061.2(1) IAB 3/5/25 ARCs 8975C, 8977C	6200 Park Avenue, Suite 100 Des Moines, Iowa	March 25, 2025 9 to 9:20 a.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Contribution rates; proof of date of birth, 4.6, 11.1(1)“a” IAB 3/19/25 ARC 9046C	IPERS 7401 Register Drive Des Moines, Iowa Via conference call: teams.microsoft.com/l/meetup-join Meeting ID: 238 457 440 852 Passcode: 9yr9qy2P	April 8, 2025 10 to 11 a.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards for personal protective equipment in construction—adoption by reference, 26.1 IAB 3/5/25 ARC 8980C	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	April 1, 2025 9 to 9:15 a.m. April 2, 2025 2 to 2:15 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Licensure; infection control for barbershops and barber schools; barber schools; continuing education for barbers; discipline for barbers, barber instructors, barbershops and barber schools, rescind chs 21 to 25 IAB 3/19/25 ARC 9007C	6200 Park Avenue Des Moines, Iowa	April 8, 2025 1:30 to 2 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Flammable or combustible liquids; aboveground flammable or combustible liquid storage tanks, adopt ch 221; rescind ch 224 IAB 3/5/25 ARC 8976C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	March 25, 2025 1 p.m. March 26, 2025 11 a.m.

TRANSPORTATION DEPARTMENT[761]

Interstate motor vehicle fuel licenses and permits, ch 505 IAB 3/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 274 584 897	April 11, 2025 9 to 9:30 a.m.

License examination, ch 604 IAB 3/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 170 430 735	April 11, 2025 1 to 1:30 p.m.

Nonoperator's identification, ch 630 IAB 3/19/25 Regulatory Analysis	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 912 465 408	April 11, 2025 2 to 2:30 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 31, 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.

The following list will be updated as changes occur.

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

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

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

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
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BLIND, DEPARTMENT FOR THE[111]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
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INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
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 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]
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CORRECTIONS DEPARTMENT[201]
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 College Student Aid Commission[283]
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PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
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 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
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TURKEY MARKETING COUNCIL, IOWA[787]
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COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 15
“Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.228
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.228

Public Hearing

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

April 8, 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 15 pursuant to Executive Order 10. The new Chapter 15 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the scholarship; describes the process, procedures, and duties of the Commission, applicants, and institutions; illustrates the priority criteria for awarding scholarships; and provides the process used to align high-demand jobs to programs of study offered at participating 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, articulates the awarding of funds and general provisions of eligibility to align with other state-funded scholarships and grants, and demonstrates the alignment between high-demand jobs and eligible programs of study. The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the scholarship (paragraph 15.4(4)“g”). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges and universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges and 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, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the scholarship and illustrates the duties of the eligible institutions, the Commission, and applicants in the administration of the scholarship.

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, of which time a fraction could be assigned to an individual program.

- **Qualitative description of impact:**

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

The proposed rulemaking leverages existing official public data aligning high-demand jobs to eligible programs of study, ensuring that an administratively burdensome process to recreate a crosswalk that aligns high-demand jobs to programs of study is not necessary.

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

3. Costs to the State:

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

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

- **Anticipated effect on state revenues:**

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

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

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and disburse the grants, articulate criteria and general provisions of eligibility, and ensure the future integrity of the grant through periodic compliance reviews. The cost of inaction would be confusion about and inconsistency in the process and criteria to be used in the application

and awarding of funds under the grant, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

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

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

6. Alternative methods considered by the agency:

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

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

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

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

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 15 and adopt the following new chapter in lieu thereof:

CHAPTER 15
FUTURE READY IOWA SKILLED WORKFORCE
LAST-DOLLAR SCHOLARSHIP PROGRAM

283—15.1(256) Basis for aid. Assistance under the future ready Iowa skilled workforce last-dollar scholarship program is available for Iowa residents enrolled in approved programs aligned with high-demand jobs.

283—15.2(256) Definitions. As used in this chapter:

“*Approved program*” means an eligible program of study approved through the process described in rule 283—15.6(256).

“*Continuous enrollment*” means that an eligible student is enrolled at least part-time in successive fall and spring semesters, or the equivalent, after receiving the award. Enrollment in the summer semester is not required to meet this condition.

“*Credential*” means the same as defined in Iowa Code section 256.228(1)“d.”

“Eligible institution” means an institution that meets the criteria in Iowa Code section 256.228(1) “e” and the provisions of rule 283—15.7(256).

“Financial metric” means the same as defined in rule 283—10.2(261).

“Full-time” means the same as defined in rule 283—10.2(261).

“Iowa resident” means the same as defined in rule 283—10.2(261).

“Part-time” means enrollment in at least 6 but fewer than 12 hours per semester or the equivalent. An eligible student may enroll in fewer than six semester hours, or the equivalent, in the semester that the credential will be completed if part-time enrollment is not necessary to complete the program of study.

“Satisfactory academic progress” means the same as defined in rule 283—10.2(261).

“Semester” means the fall, spring, or summer term of enrollment at an eligible institution, if the eligible institution is on a semester system, or the equivalent, if the institution is on a system other than a semester system.

283—15.3(256) Eligible applicant. An eligible applicant is an Iowa resident who is enrolled at least part-time in an approved program at an eligible institution and who meets the program eligibility criteria and the following provisions:

15.3(1) Annually completes the applications that the commission deems necessary on or before the date established by the commission, attends orientation, registers for classes with an academic advisor, and participates in career advising sessions.

15.3(2) Has an eligible financial metric in the first year the scholarship is received, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

15.3(3) Maintains continuous enrollment.

15.3(4) Meets one of the following two conditions:

a. Is under age 20 as of July 1 prior to the year of enrollment and enrolls at least part-time following graduation from an Iowa high school, completion of private instruction under Iowa Code chapter 299A, or receipt of a high school equivalency diploma under Iowa Code chapter 259A.

b. Following receipt of a high school diploma or high school equivalency diploma, enrolls at least part-time in an approved program at an eligible institution after attaining the age of 20 as of July 1 prior to the year of enrollment. To receive an award under this condition, the eligible applicant cannot have received an award under paragraph 15.3(4) “a.”

283—15.4(256) Awarding of funds.

15.4(1) *Selection criteria.* All eligible applicants will be considered for an award.

15.4(2) *Extent of award and maximum award.* Eligible applicants may receive no more than the equivalent of eight part-time awards. The maximum award will be calculated as follows:

a. Awards for eligible students attending Iowa community colleges shall not exceed the remaining tuition and mandatory institutionwide fees after applying federal and state nonrepayable aid.

b. Awards for eligible students attending an accredited private institution, as defined in Iowa Code section 256.183, shall not exceed the average tuition and mandatory institutionwide fees at Iowa community colleges after applying federal and state nonrepayable aid. The average resident tuition and mandatory institutionwide fees will be used under this provision.

c. Awards for eligible students enrolled on a full-time basis shall be at least \$250 per semester or the equivalent amount if the eligible institution operates on a system other than the semester system. Awards for eligible students enrolled on a part-time basis will be prorated by dividing the number of hours for which the student is enrolled by the required number of hours for full-time enrollment and multiplying the quotient by the maximum award.

d. Tuition and institutionwide mandatory fees associated only with coursework required for the student’s Title IV-eligible program of study can be used to determine the award amount.

15.4(3) *Priority for awards.*

a. In the event that the funds available are insufficient to provide maximum awards to all eligible applicants through the entire state fiscal year, awards will first be authorized to eligible applicants enrolled in the fall and spring semester or the equivalent and then to eligible applicants enrolled in the summer semester or the equivalent.

b. In the event that funds available are insufficient to provide the maximum award to all eligible applicants in a semester, the commission may prorate awards to students in that semester.

15.4(4) *Awarding process.*

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

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

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

d. Eligible institutions will apply awards directly to student accounts.

e. 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, program of study, and financial situation and promptly report those changes to the commission.

f. 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.

g. The commission will periodically investigate and review compliance of eligible institutions participating in this program with the criteria established in Iowa Code section 256.228 and this rule.

283—15.5(256) Exceptions. If an eligible applicant discontinues enrollment at the eligible institution due to military deployment, due to a temporary medical incapacity, in relation to a declaration of a national or state emergency, or due to other exceptional circumstances approved by the commission, the eligible applicant may apply for a waiver. If the waiver is approved, the eligible applicant is not required to maintain continuous enrollment during the period covered by the waiver.

283—15.6(256) Determination of programs of study aligned with high-demand jobs.

15.6(1) *Statewide high-demand jobs.* The commission will utilize the department of workforce development's most recent list of statewide high-demand jobs pursuant to Iowa Code section 84A.1B(14) and align those jobs to eligible programs of study.

15.6(2) *Regional high-demand jobs.* The commission will request submissions of regional high-demand jobs that align with eligible programs of study from each Iowa community college. Each Iowa community college may request up to five regional high-demand jobs to be considered for approval for students at that Iowa community college.

15.6(3) *Eligible programs of study.* The eligible institution will offer a career and technical education program of study that results in a credential that is aligned with employment in a high-demand job. The eligible program of study will meet similar criteria established for career and technical education programs approved under 281—Chapter 21. The classification of the instructional program code and the standard occupation code will be used to align eligible programs of study to high-demand jobs.

15.6(4) *Approved program.* Before an eligible program of study is considered an approved program of study, the department of workforce development and the commission, in consultation with the department of education, will jointly certify that the program of study and credential are aligned with a high-demand job pursuant to Iowa Code section 84A.1B(14).

15.6(5) *Grandfather clause.* If the state workforce development board or a community college district removes a high-demand job from the approved list, an eligible applicant who received an

award in a program of study aligned with that high-demand job will continue to receive the award as long as the eligible applicant continues to meet all other eligibility criteria.

283—15.7(256) Institution eligibility requirements.

15.7(1) *Application process.* An institution requesting to participate in the program may apply to the commission using the commission's designated application. An applicant institution will provide the commission with documentation establishing its eligibility as an eligible institution that offers eligible programs of study. Applicant institutions will submit the application and documentation establishing their eligibility on or before October 1 of the year prior to the beginning of the academic year for which they are applying for participation.

15.7(2) *Public information.* A list of all eligible programs of study, as well as the necessary courses and the suggested course sequence, will be available in a prominent location on the eligible institution's website.

These rules are intended to implement Iowa Code section 256.228.

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 18
“Iowa Work-Study Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.206

State or federal law(s) implemented by the rulemaking: Iowa Code sections 256.206 through 256.209

Public Hearing

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

April 8, 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 18 pursuant to Executive Order 10. New Chapter 18 is proposed to ensure that the Commission meets the requirements set forth in law by adopting rules for the administration of the Iowa work-study program. The proposed rulemaking establishes the eligibility criteria and procedures for the awarding of funds and describes the process, procedures, and duties of the Commission, applicants, and institutions.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

In general, the proposed rulemaking does not impose requirements that would add administrative burden beyond the provisions already established in law. The rulemaking clarifies the processes that will be utilized to ensure eligible applicants are awarded funds and articulates the awarding of funds and general provisions of eligibility to align with other state-funded student financial aid programs. The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the program (subrule 18.6(3)). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges and universities participating in all state-funded student financial aid programs. Typically, the Commission reviews the three to five colleges and 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, and the Commission will benefit from the rulemaking since the rulemaking clarifies the processes by which Iowans will apply for and qualify for the program; clarifies the procedures that institutions will use in awarding the funds; and illustrates the duties of the eligible institutions, the Commission, and applicants in the administration of the program.

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

- **Quantitative description of impact:**

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 fewer than ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, of which time a fraction could be assigned to an individual program.

- **Qualitative description of impact:**

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

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

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 program funds, articulate the awarding of funds and general provisions of eligibility, and ensure the future integrity of the program through periodic compliance reviews. The cost of inaction would be confusion about and inconsistency in the process and criteria to be used in the application and awarding of funds under the program, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

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

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

6. Alternative methods considered by the agency:

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

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

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

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

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18
IOWA WORK-STUDY PROGRAM

283—18.1(256) Basis of aid. Assistance available under the Iowa work-study program is based on the financial need of Iowa residents enrolled at eligible postsecondary education institutions.

283—18.2(256) Definitions.

“*Eligible postsecondary education institution*” means the same as defined in Iowa Code section 256.207 and described in rule 283—18.6(256).

“*Financial metric*” means the same as defined in 283—Chapter 10.

“*Financial need*” means the same as defined in 283—Chapter 10.

“*Full-time*” means the same as defined in 283—Chapter 10.

“*Iowa resident*” means the same as defined in 283—Chapter 10.

“*Part-time*” means enrollment in at least 6 but fewer than 12 hours per semester or the equivalent.

“*Program of study*” means the same as defined in 283—Chapter 10.

“*Satisfactory academic progress*” means the same as defined in 283—Chapter 10.

283—18.3(256) Administrative procedures.

18.3(1) *Alignment with federal work-study regulations.* To facilitate efficient administration, the commission hereby adopts the federal work-study regulations found at 34 CFR Part 675, Subpart A, as of July 1, 2024. Provisions of the federal regulations adopted include:

- a. Selection of students for employment (34 CFR §675.10),
- b. Payments to students (34 CFR §675.16),
- c. Fiscal procedures and records (34 CFR §675.19),
- d. General employment conditions for institutional employment, including civil rights requirements, state worker compensation laws, and social security requirements (34 CFR §675.20(c) and (d)),
- e. Institutional employment (34 CFR §675.21), and
- f. Wage administration (34 CFR §675.24).

18.3(2) *No transfer of funds.* An eligible postsecondary education institution must administer state-funded work-study funds for Iowa residents in the same manner as the institution administers its federal work-study program, except that state funds cannot be transferred to other student aid programs or across state fiscal years.

18.3(3) *Employment restrictions.* The creation of work-study opportunities will not result in the displacement of employed workers or impair or affect existing contracts for services, and the funding used by an eligible postsecondary education institution will supplement and not supplant jobs and existing financial aid programs provided to students.

283—18.4(256) Eligible applicant. An eligible applicant is an Iowa resident who is enrolled full-time or part-time in a program of study at an eligible postsecondary education institution, is employed at an eligible postsecondary education institution, and meets the program eligibility criteria in Iowa Code section 256.208 and the following provisions:

18.4(1) Completes the Free Application for Federal Student Aid and any other application the eligible postsecondary education institution deems necessary on or before the date established by the eligible postsecondary education institution.

18.4(2) Establishes financial need, has an eligible financial metric, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

283—18.5(256) Awarding of funds.

18.5(1) *Selection criteria.* Eligible postsecondary education institutions will document the consistent processes by which they select eligible applicants to receive awards.

18.5(2) *Maximum award.* The maximum award for full-time students will not exceed the student's financial need.

18.5(3) *Awarding process.*

a. The commission will provide notice of the eligibility criteria, distribute funding allocations, and request acceptance of the funding allocation from each eligible postsecondary education institution annually. Eligible postsecondary education institutions will accept or decline the funding allocation by the deadline established by the commission.

b. Funding allocations that are declined or unspent by the date the commission deems necessary will be reallocated to participating eligible postsecondary education institutions.

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

d. Eligible postsecondary education institutions will distribute awards as eligible applicants complete their employment obligations.

e. Eligible postsecondary education institutions will provide information about the awards earned by eligible applicants to the commission in a format specified by the commission at the end of each semester or the equivalent. If all allocated funds are not spent by an eligible postsecondary

education institution by the end of the year, those unspent funds may be deducted from the eligible postsecondary education institution's subsequent allocation.

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

283—18.6(256) Eligible postsecondary education institution eligibility.

18.6(1) *Application.* A nonparticipating eligible postsecondary education institution will request participation using the commission's designated application. The institution will meet the eligibility criteria in Iowa Code section 256.207 at the time the application is submitted.

18.6(2) *Deadline to apply.* Nonparticipating eligible postsecondary education institutions seeking to participate in the Iowa work-study program will submit applications on or before October 1 of the year prior to the beginning of the academic year for which they are applying for participation.

18.6(3) *Compliance audits.* The commission will periodically investigate and review compliance of eligible postsecondary education institutions participating in this program with the criteria established in Iowa Code chapter 256 and this rule. If the commission finds that an eligible postsecondary education institution fails to comply with the provisions of Iowa Code sections 256.206 through 256.209 or this rule, participation in the Iowa work-study program may be suspended.

These rules are intended to implement Iowa Code sections 256.206 through 256.209.

COLLEGE STUDENT AID COMMISSION[283]

Regulatory Analysis

Notice of Intended Action to be published: 283—Chapter 37
“Debt Collection”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.197(7)
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.197(7)

Public Hearing

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

April 8, 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 37 pursuant to Executive Order 10. New Chapter 37 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules to provide for an effective system of collecting defaulted obligation owed to the Commission. The proposed rulemaking illustrates the mechanisms and references the processes the Commission utilizes in the collection of defaulted obligations.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Since the rulemaking leverages existing processes at both the federal and state level, the costs incurred by the public, the Commission, and other entities are expected to be as minimal as possible.

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

Debtors and the Commission will benefit from the rulemaking since the rulemaking clarifies the consistent processes the Commission will utilize to collect upon defaulted obligations.

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:**

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

3. Costs to the State:

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

The proposed rulemaking leverages existing processes for administrative wage garnishment and Iowa tax offsets. As such, costs borne to the Commission and other agencies should be minimal.

- **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 rulemaking provides clear processes that will be utilized in the collection of defaulted obligations. The cost of inaction would be not collecting upon the defaulted obligations of individuals who have the means to repay those obligations. The proposed chapter also publicly illustrates the means by which the Commission will collect upon defaulted obligations.

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

The Commission has not identified a more cost-effective alternative to the processes identified in the collection of defaulted obligations.

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:**

Not applicable.

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 37 and adopt the following **new** chapter in lieu thereof:

CHAPTER 37
DEBT COLLECTION

283—37.1(256) Definitions.

“*Debtor*” means a person who has defaulted on any obligation owed to or collected by the commission.

“Default” means that a debtor:

1. Becomes obligated to repay the commission under any loan repayment program administered by the commission and fails to make an agreed payment within 30 days of the agreed due date;
2. Becomes obligated to repay the commission under any forgivable loan program administered by the commission and fails to make an agreed payment within 30 days of the agreed due date; or
3. Enters into a written repayment agreement with the commission and fails to make an agreed payment within 30 days of the due date stated in the repayment agreement.

“Defaulted obligation owed” means the total amount of the debtor’s obligation, including principal and unpaid accrued interest, and may include collection costs and other allowable fees.

283—37.2(256) Administrative wage garnishment procedures. The commission shall use the general administrative wage garnishment procedures established in 34 CFR Part 34 et seq., as of July 1, 2024, in the collection of all defaulted obligations owed to the commission. Administrative hearings will be governed by 283—Chapter 4.

283—37.3(261) Offset against state income tax refund or rebate. The commission may make a claim against a defaulted borrower’s state income tax refund or rebate to receive a payment against defaulted obligation owed pursuant to 701—Chapter 26.

These rules are intended to implement Iowa Code section 256.197.

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapter 19
“Charter Schools”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256E.3

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 256E

Public Hearing

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

April 8, 2025
8 to 8:45 a.m.

Room B100
Grimes State Office Building
Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

Since the conditions for learning survey is no longer required for the Elementary and Secondary Education Act, as most recently amended by the Every Student Succeeds Act, accountability for all public schools, the survey ought to be removed from the Department’s rules concerning the charter school performance framework. This proposed rulemaking makes a technical correction to the performance framework in the Department’s rules.

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.
 - **Classes of persons that will benefit from the proposed rulemaking:**
Charter school students and administrators will benefit from clarity.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no quantitative impact.
 - **Qualitative description of impact:**
The proposed amendment would add increased clarity to charter school accountability.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs.

- **Anticipated effect on state revenues:**

There is no effect on state revenues.

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

The statute requires rules.

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

There are no less costly means. The statute requires rules.

6. Alternative methods considered by the agency:

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

There are no alternatives to rulemaking.

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

The statute requires rules.

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 impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule 281—19.9(256E) as follows:

281—19.9(256E) Performance framework. The performance provisions within each charter school's contract are governed by Iowa Code section 256E.9. This framework includes the items in Iowa Code section 256E.9(1), including student academic growth and proficiency in English language arts on statewide outcome assessments, student academic growth and proficiency in mathematics on statewide outcome assessments, and ~~conditions for learning~~ any other data (as mandated by Iowa's state plan under the Every Student Succeeds Act).

Regulatory Analysis

Notice of Intended Action to be published: 281—Chapter 46
“Career and Technical Education”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.129(5)

State or federal law(s) implemented by the rulemaking: Iowa Code section 256.136

Public Hearing

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

April 8, 2025
8 to 8:45 a.m.

Room B100
Grimes State Office Building
Des Moines, Iowa

Public Comment

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

Thomas A. Mayes, General Counsel
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking removes a superfluous reference to federal funds from the rule on regional planning partnerships (RPPs). RPP funds are state dollars, and any use of federal funds to support an RPP’s work would be solely governed by federal law.

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.
 - **Classes of persons that will benefit from the proposed rulemaking:**
RPPs and their participants will benefit from the additional clarity in this proposed rulemaking.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no quantitative impact.
 - **Qualitative description of impact:**
There is a positive qualitative impact in that the rule will become more clear.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**
There are no costs noted.
 - **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

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

The statute requires rules.

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

None were considered. The statute requires rules.

6. Alternative methods considered by the agency:

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

None were considered.

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

The statute requires rules.

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 impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 46.10(6), introductory paragraph, as follows:

46.10(6) *Secondary career and technical education funds.* An approved regional career and technical education partnership may use funds received from state ~~and federal~~ sources on behalf of school districts and community colleges participating in the regional career and technical education planning partnership for the following:

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 75
“Working persons with disabilities”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 249A.3(2)“a”(1)(b)

State or federal law(s) implemented by the rulemaking: Social Security Act section 1916A and Social Security Act section 1902(a)(10)(A)(ii)(XIII)

Public Hearing

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

April 8, 2025
2:30 p.m.

Microsoft Teams
Meeting ID: 285 090 102 852
Passcode: xo9b9xv6

Public Comment

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

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

This proposed rulemaking adjusts the federal poverty level(FPL) increments used to assess premiums for applicants and recipients under the Medicaid for Employed Persons with Disabilities (MEPD) program with income over 150 percent of the FPL.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

MEPD program members will see an increase in premiums.

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

The State benefits from imposing a monthly premium because it helps to ensure program sustainability and increases a member’s personal responsibility for the person’s medical care.

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 new premium scale reflects the increase in the cost of state employees’ health insurance by updating the new top increment to 1,480 percent of the FPL and the corresponding premium amount. All other premium amounts will be increased.

MEPD program eligibility is based on countable household income of no more than 250 percent of the FPL for the household size. MEPD program premiums are assessed based on gross individual income.

During CY 2024 there were no MEPD program members with gross individual incomes higher than 450 percent of the FPL.

- **Qualitative description of impact:**

The Department is requesting these changes because Iowa Code section 249A.3(2)“a”(1)(b) requires that “the maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state.” The average cost to the state employees’ health insurance for a single person is \$980 effective January 1, 2025. The maximum premium must not be above that amount.

3. **Costs to the State:**

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

There are no anticipated costs with this proposed change.

- **Anticipated effect on state revenues:**

The anticipated effect of the proposed premium change on state revenue for FY 2026 is \$252,470.

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

Because these changes are required by Iowa Code section 249A.3(2)“a”(1)(b), inaction is not an option.

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

As these changes are required by Iowa Code section 249A.3(2)“a”(1)(b), other methods were not explored.

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

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

No alternative methods were considered.

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

Alternative methods were not considered because these changes are required by Iowa Code section 249A.3(2)“a”(1)(b).

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 change will not have any impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend subparagraph 75.1(39)“b”(3) as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$35 <u>\$43</u>
165% of Federal Poverty Level	\$48 <u>\$59</u>
180% of Federal Poverty Level	\$57 <u>\$70</u>
200% of Federal Poverty Level	\$67 <u>\$82</u>
225% of Federal Poverty Level	\$79 <u>\$97</u>
250% of Federal Poverty Level	\$92 <u>\$113</u>
300% of Federal Poverty Level	\$115 <u>\$141</u>
350% of Federal Poverty Level	\$140 <u>\$171</u>
400% of Federal Poverty Level	\$165 <u>\$202</u>
450% of Federal Poverty Level	\$190 <u>\$233</u>
550% of Federal Poverty Level	\$237 <u>\$291</u>
650% of Federal Poverty Level	\$286 <u>\$351</u>
750% of Federal Poverty Level	\$337 <u>\$413</u>
850% of Federal Poverty Level	\$398 <u>\$488</u>
1000% of Federal Poverty Level	\$477 <u>\$586</u>
1150% of Federal Poverty Level	\$559 <u>\$685</u>
1300% of Federal Poverty Level	\$644 <u>\$790</u>
1480% of Federal Poverty Level	\$744 <u>\$913</u>
~~1550% of Federal Poverty Level~~	\$829

INSPECTIONS AND APPEALS DEPARTMENT[481]

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 804
“Licensure of Occupational Therapists and Occupational Therapy Assistants”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 148B, 147E.1, 272C.3, and 272C.10

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 147, 148B, and 272C and section 147E.1

Public Hearing

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

April 9, 2025

12 noon to 12:30 p.m.

6200 Park Avenue

Des Moines, Iowa

Google Meet

meet.google.com/ea-sciu-vjz

Or dial: (US) +1 574.440.8035

PIN: 895 818 900#

More phone numbers: [tel.meet/ea-sciu-vjz?](https://tel.meet/ea-sciu-vjz?pin=1641821153114)

[pin=1641821153114](https://tel.meet/ea-sciu-vjz?pin=1641821153114)

Public Comment

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

Venus Vendoures Walsh

6200 Park Avenue

Des Moines, Iowa 50321-1270

Phone: 515.242.6529

Email: venus.vendoures-walsh@dia.iowa.gov

Purpose and Summary

The proposed rulemaking defines the requirements for participation in the Occupational Therapy Licensure Compact, adds background check requirements for initial licensure and licensure by endorsement for all occupational therapist (OT) and occupational therapist assistant (OTA) applicants, adds a fee for the issuance of a compact privilege to practice in Iowa, and waives the compact privilege fee for an active duty military member or spouse.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no direct cost to the general public, but there is a cost to the applicant or licensee because compliance with the minimum requirements to enter into the Occupational Therapy Licensure Compact is at the expense of the applicant.

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

These minimum requirements for compact privilege holders ensure that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board of Physical and

Occupational Therapy believes the benefits achieved justify the cost of background checks and fees for this profession by ensuring that Iowans are treated by competent and qualified practitioners with knowledge of topics pertinent to the profession to ensure the safety and welfare of the public. This rulemaking highlights the need for privilege holders to understand and follow Iowa's laws and rules while serving 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:**

Educational institutions provide training for OTs and OTAs. Additional private industries and educational institutions provide examinations and materials for preparation for the examination. Compact privilege fees are \$60. Privileges expire at the time the home state license expires.

- **Qualitative description of impact:**

Establishing minimum requirements for compact privileges ensures safety for the Occupational Therapy Licensure Compact privilege holder and consumer. The cost of inaction would be an increase in the potential for injury to the public by an Occupational Therapy Licensure Compact privilege holder who is not qualified to perform work in the field.

3. Costs to the State:

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

A cost to the agency is the staff time needed to manage Board activities, which include a new background check process; database updates; initial implementation of the Occupational Therapy Licensure Compact; database maintenance; and education of the public, licensees, and privilege holders. Occupational Therapy Licensure Compact privilege holders are subject to the laws and rules of Iowa and may be investigated or disciplined by the Board. Consent agreements and discipline imposed by the Board are monitored by office staff.

An executive officer supports the full scope of this work at 0.22 full-time equivalent position. This includes reviews at the time of initial application and during reinstatement.

- **Anticipated effect on state revenues:**

Costs associated with implementing this rulemaking will be offset by the fees collected by Occupational Therapy Licensure Compact privilege holders.

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

The Board believes all current requirements ensure public safety and minimum competency.

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

The Board has not identified a more cost-effective alternative for compliance with Iowa Code section 147E.1, which outlines Iowa's role as an Occupational Therapy Licensure Compact member state.

6. Alternative methods considered by the agency:

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

The agency currently supports multiple compacts. Adding the Occupational Therapy Licensure Compact to the current database ensures public safety, minimum competence of the Occupational Therapy Licensure Compact privilege holder, and compliance with Iowa Code section 147E.1.

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

The Board has not identified a more cost-effective alternative to the current internal process utilized for licensure review and compliance audits. The Board believes all current requirements ensure that the public is safe and that a minimum competency of care is provided to Iowans. This rulemaking provides consistency related to the licensure of occupational therapists and occupational therapist assistants across the United States. Membership in the Occupational Therapy Licensure Compact requires the uniform licensure of these providers. DIAL continues to assess and implement

opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These amendments support this effort.

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 relates to public safety concerns that are present whether the business is a small business or a large organization. The rulemaking is meant to ensure public safety in terms of licensing requirements for physical therapists and physical therapist assistants. To exempt a small business from adhering to this rulemaking would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

Text of Proposed Rulemaking

ITEM 1. Renumber subrules **804.2(3)** and **804.2(4)** as **804.2(4)** and **804.2(5)**.

ITEM 2. Adopt the following **new** subrule 804.2(3):

804.2(3) Submit a completed fingerprint card 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.

ITEM 3. Renumber rules **481—804.4(147)** through **481—804.9(17A,147,272C)** as **481—804.5(147)** through **481—804.10(17A,147,272C)**.

ITEM 4. Adopt the following **new** rule 481—804.4(147E):

481—804.4(147E) Occupational therapy licensure compact. The rules of the occupational therapy compact commission are incorporated by reference. An occupational therapist or occupational therapist assistant may engage in the practice of occupational therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the occupational therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be \$60, which will be collected by the occupational therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. An occupational therapist or occupational therapist assistant who practices occupational therapy in Iowa using a compact privilege is subject to the rules governing licensees in this chapter and in 481—Chapters 806 and 807. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; Iowa Code section 147E.1; and 481—Chapters 503, 504, and 506.

This rule is intended to implement Iowa Code section 147E.1.

ITEM 5. Amend renumbered rule 481—804.10(17A,147,272C) as follows:

481—804.10(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—804.8(17A,147,272C)~~ 481—804.9(17A,147,272C) prior to practicing occupational therapy in this state.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 505
“Interstate Motor Vehicle Fuel Licenses and Permits”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 452A.59

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 452A

Public Hearing

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

April 11, 2025
9 to 9:30 a.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 274 584 897

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:

Debbie Freeman
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: deborah.freeman@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to comply with Iowa Code chapter 452A by outlining the application and eligibility requirements to obtain fuel licenses and permits for operation and movement of vehicles for interstate commerce. An International Fuel Tax Agreement (IFTA) fuel license or permit is required before commercial vehicles registered in Iowa may operate in other jurisdictions.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are no costs or fees associated with this chapter beyond what is required by the underlying statute. Rather, the purpose of the proposed rules is to establish the eligibility requirements, application process and guidelines for IFTA fuel licenses and permits.

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

Persons seeking to obtain fuel licenses or permits will benefit from this chapter by knowing the eligibility criteria, application process and guidelines for IFTA fuel licenses and permits.

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

- **Quantitative description of impact:**

There are no additional quantitative impacts that were not already anticipated as a result of the underlying statute, which requires the Department to have a process in place to issue IFTA fuel licenses or permits to qualified applicants.

- **Qualitative description of impact:**

The result of reorganizing, streamlining and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version of the chapter that the public relies on for understanding how to obtain IFTA fuel licenses or permits.

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. The statute requires the Department to have a process in place to issue IFTA fuel licenses or permits to qualified applicants.

- **Anticipated effect on state revenues:**

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

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

The benefits of the proposed chapter are consistency and transparency in the processes and requirements for obtaining fuel licenses and permits in Iowa.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain and maintain fuel licenses and permits in Iowa.

There is no benefit of inaction.

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

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

6. Alternative methods considered by the agency:

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

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to have a process in place to issue fuel licenses and permits to qualified applicants.

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

Not applicable.

Small Business Impact

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

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

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

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

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

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

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

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all persons seeking fuel licenses or permits under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 505 and adopt the following **new** chapter in lieu thereof:

CHAPTER 505
INTERSTATE MOTOR VEHICLE FUEL LICENSES AND PERMITS

761—505.1(452A) Definitions. The definitions in Iowa Code sections 452A.2, 452A.40 and 452A.57, where not inconsistent with the definitions below, apply to this chapter. In addition:

“*Department*” means the department of transportation.

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

“*Fuel(s)*” means and includes “motor fuel” and “special fuel” as defined in Iowa Code section 452A.2.

“*Fuel license*” or “*license*” means an IFTA license issued pursuant to Iowa Code section 452A.53.

“*Hydrogen gallon*” means a diesel gallon equivalent. A diesel gallon equivalent of hydrogen weighs 2.49 pounds.

“*IFTA*” means the International Fuel Tax Agreement, which is a multijurisdictional agreement for the administration of motor fuel tax laws for vehicles operated in multiple member jurisdictions.

“*IFTA member jurisdiction*” means a jurisdiction that is a member of the IFTA. A list of jurisdictions and their membership statuses may be obtained by contacting the motor vehicle division.

“*Lease*” means a contract or agreement by which a vehicle owner (lessor) provides a vehicle to a person or company (lessee) for use during a specified period of time.

1. “*Long-term lease*” means a lease for a period of 30 days or more.

2. “*Short-term lease*” means a lease for a period of 29 days or less, including trip leases. Back-to-back leases of 29 days or less are considered short-term leases.

“*Licensee*” means any person who holds a valid fuel license.

“*Non-IFTA member jurisdiction*” means a jurisdiction that is not a member of the IFTA. A list of jurisdictions and their membership statuses may be obtained by contacting the motor vehicle division.

“*Permittee*” means any person who holds a valid temporary fuel permit.

“*Qualified motor vehicle*” means a motor vehicle or combination of vehicles used or designed to transport persons or property if any of the following apply:

1. The vehicle or combination of vehicles weighs more than 26,000 pounds.

2. The vehicle or combination of vehicles is registered for more than 26,000 pounds.

3. The power unit has three or more axles.

“*Qualified motor vehicle*” does not include recreational vehicles.

“*Quarter*” means calendar quarter, January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31.

“*Temporary fuel permit*” or “*temporary permit*” means a single trip fuel permit issued pursuant to Iowa Code section 452A.53.

This rule is intended to implement Iowa Code sections 452A.2, 452A.40, 452A.57 and 452A.59.

761—505.2(452A) General information.

505.2(1) Information and location. Applications, forms and information on interstate motor vehicle fuel permits and licenses are available on the department’s website at www.iowadot.gov/mvd/motorcarriers/IFTA/File-IFTA; by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.237.3268; by facsimile at 515.237.3225; or by email at omcs@iowadot.us.

505.2(2) Organizational data. The motor vehicle division is authorized pursuant to Iowa Code chapter 452A to:

- a. Issue fuel licenses or temporary fuel permits.
- b. Compute and collect interstate motor fuel taxes.
- c. Refund overpayments of interstate fuel taxes.

d. Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. Pursuant to Iowa Code section 452A.56, the department has adopted and incorporates into this chapter the IFTA effective January 2025. IFTA governing documents do not create rights for the taxpayer.

505.2(3) *Waiver of rules.* In accordance with 761—Chapter 11, the director may, in response to a petition, waive provisions of this chapter. A waiver will not be granted unless the director finds that special or emergency circumstances exist.

“Special or emergency circumstances” means one or more of the following:

a. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.

b. Circumstances where the movement is necessary to cooperate with national defense officials.

c. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

d. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events, such as but not limited to pollution of natural resources, a potential fire or an explosion.

e. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

f. Circumstances where the movement involves emergency-type vehicles.

g. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

This rule is intended to implement Iowa Code sections 452A.51, 452A.56 and 452A.59.

761—505.3(452A) General stipulations.

505.3(1) *IFTA member requirements.* In order to enter this state and not be in violation of Iowa Code section 452A.52, the operator of the qualified motor vehicle based in an IFTA member jurisdiction must do one of the following:

a. Possess a fuel license pursuant to Iowa Code section 452A.53.

b. Purchase a temporary fuel permit pursuant to Iowa Code section 452A.53 and subrule 505.3(9) when entering or before entering the state.

505.3(2) *Non-IFTA member requirements.* The operator of a qualified motor vehicle based in a non-IFTA member jurisdiction must do one of the following:

a. Possess a fuel license pursuant to Iowa Code section 452A.53.

b. Purchase a temporary fuel permit pursuant to Iowa Code section 452A.53 and subrule 505.3(9) when entering or before entering the state.

c. Enter the state with 30 gallons of fuel or less.

d. Enter the state with less than 350 kilowatt hours of electric fuel.

e. Enter the state with only Iowa tax paid fuel.

505.3(3) *Determination of fuel supply.*

a. To determine if a vehicle has entered the state with more than 30 gallons of fuel, the total of all fuel in all tanks that could be used to fuel the power source of the vehicle shall be considered to reach a total gallonage, or diesel gallon equivalent. The fuel tank connected to a “reefer unit,” which can neither be directly nor indirectly connected to the power source of the vehicle, shall not be considered in arriving at the 30-gallon total.

b. To determine if a vehicle has entered the state with more than 350 kilowatt hours of electric fuel, the total of all electric fuel in the batteries or other energy storage devices of a commercial motor vehicle shall be considered to reach total kilowatt hours, regardless of whether the batteries or storage devices are connected to the motor of the vehicle.

505.3(4) *Fuel license.*

a. A fuel license may be obtained from the motor vehicle division, provided the following information is included with the application:

- (1) Name and address of company or corporation or owner who operates or controls the qualified motor vehicle(s).
- (2) Name(s) and address(es) of principal or corporate officers.
- (3) Signature and telephone number of contact person.
- (4) A power of attorney if someone other than an officer or employee of the company will be completing quarterly reports or requesting information from the department.
- (5) Any other information required by the department.

b. The fuel license remains valid until canceled or revoked. The reporting and computation procedure for a fuel license allows for the payment of taxes due and a refund of any overpayment. All persons holding a valid fuel license must file quarterly reports with the department.

505.3(5) *Number of temporary permits or licenses required.* No vehicle may operate under more than one license or temporary permit at a time.

505.3(6) *Possession of the license or temporary permit.* A license or temporary permit must be carried in the vehicle. More than one vehicle may be operated and reported under the same license by making a photocopy of the license and carrying it in each vehicle operating under said license. A license, copy of a license or temporary permit is void if altered. A duplicate license may be purchased from the motor vehicle division.

505.3(7) *Cancellation and reissuance.*

a. If a qualified motor vehicle operating under a license is consistently operated only within the state or only outside the state, the licensee or the department shall request that the license be canceled for nonuse.

b. A fuel license that has been canceled for cause pursuant to Iowa Code section 452A.68 may be reinstated if a bond is filed.

505.3(8) *Bond requirements.*

a. The department will require a bond when:

- (1) A previous fuel licensee is reapplying for a fuel license and has two or more outstanding fuel billings due for periods within the three years prior to date of application for a new license.
- (2) A previous fuel licensee is reapplying for a new fuel license and has failed to file two or more reports for a calendar year within the three years prior to date of application for a new license.
- (3) A previous fuel licensee is reapplying for a new license and has filed reports late for two or more reporting periods for a calendar year within the three years prior to date of application for a new fuel license.

(4) The department determines from an audit that a bond is required to protect the interests of member jurisdictions.

b. Bonds are to be made payable to the state of Iowa, in the minimum amount of \$500 or the equivalent to at least twice the estimated average tax liability for the reporting period in which the licensee will be required to file a tax return, whichever is greater.

c. A new license will not be issued until a copy of the bond is filed with the motor vehicle division. The motor vehicle division must be notified of bond cancellation 30 days before the cancellation is effective.

505.3(9) *Temporary fuel permits.*

a. A temporary fuel permit may be obtained by any person operating a qualified motor vehicle that is not otherwise covered by a license. The temporary permit may be obtained from the motor vehicle division. The temporary permit may also be obtained from a permit service or a processing agent. An application for a temporary permit may be made by phone, by facsimile or electronically to the motor vehicle division. Permittees who purchase temporary fuel permits in advance of use may not return unused permits for refund.

b. The temporary fuel permit is valid for 72 consecutive hours from the date and hour appearing on the temporary permit or upon departure from Iowa, whichever occurs first. A new temporary

permit is required in order to reenter the state. While a permittee is operating under a temporary permit, unlimited travel is allowed within Iowa. No refund of tax paid on overpurchases of Iowa fuel is allowed.

c. An application for a temporary fuel permit is to include but is not limited to the following information:

- (1) The name and address of the person who owns or controls the vehicle.
- (2) The make, year, serial number, license number and unit number of the vehicle.
- (3) The address to which the temporary permit is to be sent, if applicable.

d. The temporary permit fee shall also accompany the application unless a method of collection upon delivery is requested.

e. A temporary permit is not eligible to be transferred and is valid only for the carrier and the vehicle that are described on the permit. Once a temporary permit has been issued to a qualified motor vehicle, the purchase price is nonrefundable.

f. The completed temporary permit must be carried in the qualified motor vehicle for which it is issued.

g. The 72-hour period for which the temporary permit is valid may be extended for “emergencies,” such as extreme weather conditions when travel is not advisable or other instances, at the discretion of the motor vehicle division.

h. A temporary fuel permit is invalid if the permittee has outstanding IFTA fuel tax bills.

i. Fees for a temporary permit may be paid by cash, company or personal check or credit card.

505.3(10) *Qualified motor vehicles on lease.*

a. *Long-term lease.* Under normal circumstances, the lessee is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation, including the lease, must be made available to the department to confirm the reporting responsibility.

b. *Short-term lease.* The lessor is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation, such as a maintenance agreement or lease, must be made available to the department to confirm the reporting responsibility.

c. *Purchase receipts.* Purchase receipts must be made out in the name of the lessor, in the name of the lessee or to cash and must identify the vehicle for which the purchase is made by showing one of the following: vehicle license number, full vehicle identification number (VIN) or vehicle unit number.

This rule is intended to implement Iowa Code sections 452A.52 through 452A.54, 452A.58, 452A.59 and 452A.68.

761—505.4(452A) Quarterly reports.

505.4(1) *Failure to file.* All valid fuel licensees shall file quarterly reports with the department, even if a licensee has not traveled in Iowa. Failure to file is cause for revocation of the license and assessment of a penalty.

505.4(2) *Filing deadline.* All persons holding a valid fuel license, pursuant to the provisions of Iowa Code section 452A.53, shall file quarterly reports with the department and either remit any tax due no later than the last day of the month following the last day of the quarter covered by the report, or request a refund no later than the last day of the third month following the last day of the quarter covered by the report. If the claim for refund is filed after that date, no refund will be allowed.

505.4(3) *Reporting multiple vehicles on single license.* The licensee shall select which vehicles may be operated under the license. All miles traveled, interstate and intrastate, and all fuel purchased for those vehicles shall be reported on a consistent basis.

505.4(4) *Tax refund.* Refunds will be computed separately for each fuel type. If a refund for a fuel type does not exceed \$10, it will not be processed unless there is more than one type of fuel reported on one return and the combined refunds for all fuel types exceed \$10.

505.4(5) *Refunds of tax on fuel purchased in Iowa and consumed out of Iowa.* Even when fuel is purchased in Iowa, fuel tax is paid in Iowa and the excess fuel tax paid is subject to refund under the

provisions of Iowa Code chapter 452A, relating to interstate motor vehicle operation, the refund is not subject to state sales tax.

505.4(6) *Timely filing of report.*

a. The interstate fuel tax report required under Iowa Code section 452A.54 will be deemed timely filed if received by the motor vehicle division or postpaid, properly addressed and postmarked by the United States Postal Service on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday or legal holiday, the next secular or business day is the filing deadline.

b. All reports and remittances shall be filed online at the department's website; mailed to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; sent by facsimile to 515.237.3225 or email to omcs@iowadot.us.

c. If a report or remittance is not received by the department and the taxpayer can prove by competent evidence that the return or remittance was timely filed, the report will be considered timely filed. For the purpose of this rule, "competent evidence" means evidence in addition to the testimony of the sender sufficient or adequate to prove that the document was mailed on a specific date.

505.4(7) *Extension of time to file.* The department may grant an extension for the filing of any required report or tax payment. In order for an extension to be granted, the application requesting such extension must be filed with the department prior to the due date of the report or remittance. In determining whether an application for extension is timely filed, the provisions of subrules 505.4(2) and 505.4(6) apply. The application for extension shall be accompanied by an explanation of the circumstances justifying an extension. Any extension granted will be documented on a form issued by the department indicating the length of the extension. This form shall be attached to the report when it is filed. If an extension is granted, the penalties under Iowa Code section 452A.65 applicable to a late-filed report or remittance do not accrue until the expiration of the extension period.

505.4(8) *Penalties.*

a. A penalty of \$50 or 10 percent of the total tax due, whichever is greater, is assessed against the taxpayer if the report is not filed by the due date in accordance with subrule 505.4(6).

b. If the quarterly report shows no taxes owed or a refund due, the penalty for filing a report after the due date is \$50.

505.4(9) *Interest.* Interest at the rate established pursuant to Iowa Code chapter 421 will be assessed against the taxpayer for each month the tax remains unpaid. The interest will accrue from the date the return was required to be filed. Interest does not apply to any penalty. Each fraction of a month will be considered a full month for the computation of interest.

505.4(10) *Application of remittance.* All payments will be first applied to the interest, then to the penalty and then the balance, if any, on the amount of tax then due.

a. If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of such payment will be applied to the tax. Any penalty or interest subsequently assessed will be based on the unpaid portion of the tax.

b. If the department determines there is additional tax due from a taxpayer, interest and penalty will accrue on that amount from the date the tax should have been reported and paid.

505.4(11) *Reports, records and variations.* The department will prescribe and furnish all forms upon which reports, claims for refund, temporary permits and license applications are to be made under Iowa Code chapter 452A.

a. If the information required in these documents is presented to the department on forms or in a manner other than on the prescribed form, the report, application or claim will not be deemed "filed."

b. The fact that the reporting party does not have the prescribed form is not an acceptable reason for failure to file. The motor vehicle division may be contacted to request copies of any necessary forms.

505.4(12) *Estimating gallonage or kilowatt hours used.*

a. In the event the taxpayer's records for a specific vehicle, or vehicles, in the fleet are lacking or inadequate to support any report filed or to determine the tax liability, the department is authorized

to estimate the gallonage or kilowatt hours used upon which tax is due. This estimation will be based upon such factors, including but not limited to the following:

- (1) Prior experience of the licensee.
- (2) Licensees with similar operations.
- (3) Other vehicles in the fleet with similar operations.
- (4) Industry averages.
- (5) Records available from fuel distributors or other third parties.
- (6) Other pertinent information the base jurisdiction may obtain or examine.

b. In the event the taxpayer's records for the fleet as a whole are lacking or inadequate to support any report filed or to determine the tax liability, the department is authorized to do either of the following when estimating gallonage or kilowatt hours used upon which tax is due:

- (1) Reduce the vehicle miles per gallon or kilowatt hours by 20 percent.
- (2) Adjust the vehicle miles per gallon to 4.00 or the kilowatt hours to 1.7.

c. The findings of the department as to the amount of fuel taxes due from any person are presumed to be the correct amount and in any litigation that may follow, the certificate of the department shall be admitted in evidence and shall:

- (1) Be considered to be true and accurate unless shown otherwise by an objecting party.
- (2) Impose upon the other party the burden of showing any error in the department's finding and the extent thereof or that the finding was contrary to law.

505.4(13) *Information confidential.* Iowa Code section 452A.63, which makes all information obtained from reports or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, auditors, agents, officers, or other employees of the department. However, any person having acquired information disclosed in a taxpayer's filed report is bound by the same rules of confidentiality. The information may only be divulged to the appropriate public officials enumerated in Iowa Code section 452A.63.

505.4(14) *Taxes erroneously or illegally collected.* Any licensee is entitled to a refund of taxes, penalties or interest erroneously or illegally collected by the department or as a result of a computation error. The claim must be filed within a year of payment and accompanied by evidence to support the claim. If the request for refund includes the return of penalties or interest, the interest or penalties will be refunded in the same proportion as the tax.

505.4(15) *Supplemental billings.* The amount due is payable upon being billed by the motor vehicle division. Billings will be generated by the department for the collection of additional amounts due in the following circumstances:

- a. Penalties are assessed under the provisions of subrule 505.4(8).
- b. Interest is assessed under the provisions of subrule 505.4(9).
- c. An error in the computation on the front of the report results in additional tax due.
- d. There is a failure to remit payment for part or all of the tax due with the filed report.
- e. Payment is remitted and subsequently not honored.
- f. Taxes, penalties or interest are assessed as the result of an audit.

This rule is intended to implement Iowa Code sections 452A.54, 452A.55, 452A.59, 452A.60, 452A.61 and 452A.63 through 452A.65.

761—505.5(452A) Audits—required reports.

505.5(1) *Delegation to audit and examine.* Pursuant to Iowa Code sections 452A.53, 452A.55, and 452A.62, the department reserves the right to examine returns and records, perform audits and determine the correct amount of tax due.

505.5(2) *Statute of limitations.* Within three years after a return is filed, the department may audit the return to determine the accuracy of taxes paid. There is no time limitation on collection activities for any tax, penalty or interest due the department.

505.5(3) *Outstanding tax, penalty or interest for canceled and inactive licenses.* Any outstanding taxes, penalties or interest must be paid before reapplying for a fuel license.

505.5(4) *Audit period—records—costs.* The statute of limitations on the determination of any additional tax liability shall be three years after a return is filed; therefore, all records must be kept for four years after a return is filed.

a. For the purpose of verifying the correctness of a return filed or for estimating the tax liability of any taxpayer, the department has:

(1) The right and duty to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer that relate in any manner to fuel taxes.

(2) The authority to require, at a hearing, the attendance of the taxpayer and other witnesses and the production of books, papers, records, memoranda or documents.

b. The cost of an audit shall be at the taxpayer's expense when the records are maintained outside the state of Iowa.

505.5(5) *Taxpayers required to keep records.*

a. The records required to be kept by this rule, including invoices or other proofs of purchase, shall:

(1) Be preserved for a period of four years after a return is filed unless otherwise stated.

(2) Be open for examination by the department.

b. The fact that the tax has been paid shall appear on the proof of purchase.

505.5(6) *Records to be kept and preserved.* Every person required to file a quarterly report under Iowa Code section 452A.54 shall keep and preserve the following records:

a. Fuel purchase invoices containing:

(1) The date of the fuel purchase.

(2) The name and address of the seller of the fuel (a vendor code, properly identified, is acceptable for this purpose).

(3) The quantity of fuel purchased.

(4) The type of fuel purchased, the price of the fuel per gallon or per liter or the total price of the fuel purchased.

(5) The identification of the qualified motor vehicle into which the fuel was placed.

(6) The name of the purchaser of the fuel. When the qualified motor vehicle being fueled is subject to a lease, the name of either the lessor or lessee is acceptable for this purpose, provided a legal connection can be made between the purchaser named and the licensee.

b. Documentation for bulk fuel storage containing:

(1) Receipts for all deliveries.

(2) Quarterly inventory reconciliations for each tank.

(3) The capacity of each tank.

(4) Bulk withdrawal records for every bulk tank at each location.

(5) The purchase price of the fuel delivered into the bulk storage, including tax paid to the member jurisdiction where the bulk storage is located.

(6) Proof the licensee has paid fuel tax to the member jurisdiction where the bulk storage is located.

(7) The location of the bulk storage from which the withdrawal was made.

(8) The date of each withdrawal, including non-IFTA withdrawals.

(9) The quantity of fuel withdrawn, including non-IFTA withdrawals.

(10) The type of fuel withdrawn.

(11) The identification of the vehicle or equipment into which the fuel was placed.

c. Distance records (manual records) containing:

(1) The beginning and ending dates of the trip to which the records pertain.

(2) The origin and destination of the trip.

(3) The route of travel.

(4) The beginning and ending reading from the odometer, hubodometer, engine control module (ECM) or any similar device for the trip.

(5) The total distance of the trip.

- (6) The distance traveled in each jurisdiction during the trip.
- (7) The VIN or vehicle unit number.
- d. Electronic tracking device record created and maintained at a minimum every ten minutes when the vehicle's engine is on, containing the following data elements:
 - (1) The date and time of each system reading.
 - (2) The latitude and longitude to include a minimum of four decimal places (0.0001) of each system reading.
 - (3) The odometer reading from the ECM of each system reading. If no ECM odometer is available, a beginning and ending dashboard odometer or hubodometer for the trip will be acceptable.
 - (4) The VIN or vehicle unit number.
- e. Data required under paragraph 505.5(6) "d" must be accessible in an electronic spreadsheet format, such as XLS, XLSX, CSV or delimited text file. Formats from a vehicle tracking system that provides a static image, such as PDF, JPEG, PNG or Word, are not acceptable.

505.5(7) *New licensees.* When a person is issued a new license, the department may, within one year of issuance of the license, audit the records of the new licensee for a period going back two years from the date of issuance.

505.5(8) *Nonlicense and nonpermit holders.* All persons who bring into the state a qualified motor vehicle, upon which the Iowa tax on said fuel has not been paid, are operating within the purview of these rules as stated in Iowa Code section 452A.55. Such persons are therefore subject to audit and must keep the same records required of a fuel licensee.

505.5(9) *Interstate—intrastate operators—motor vehicle special fuel holding tanks.* If a person operates one or more qualified motor vehicles under a fuel license and also operates one or more qualified motor vehicles that are not operated under the fuel license, recordkeeping regarding the fuel consumed from the special holding tank may be performed in either of the following ways:

- a. Operators of interstate vehicles shall be given an invoice that meets the standards set forth in Iowa Code section 452A.17, for each tank fill, and the vehicle operator must then log the mileage.
- b. The licensee shall report total miles driven and total fuel used from the bulk tank, including both interstate and intrastate vehicles.

This rule is intended to implement Iowa Code sections 452A.53, 452A.55, 452A.59, 452A.60, 452A.62 and 452A.69.

761—505.6(452A) Hearings.

505.6(1) *Conduct of hearings.* Hearings are conducted in accordance with Iowa Code section 452A.69.

505.6(2) *Circumstances for holding hearings.*

a. When there is reasonable cause to believe that there is an evasion of fuel taxes, the department may cause a hearing to be held to determine the amount of fuel taxes due, if any. The person who is suspected of evading fuel taxes will be sent at least ten days' notice of the hearing. The provisions of Iowa Code section 452A.64 and paragraph 505.4(12) "b" apply.

b. If a licensee disputes the findings of an investigation or audit by the department, the licensee may request a hearing to present further evidence, information or records to support the claim. The hearing request shall be submitted in writing to the director of the motor vehicle division within 30 days of the date of notice of audit results issued by the department. A copy of the hearing request must be sent to: Iowa Attorney General's Office, Transportation Section, Attn: Audit Appeals, 800 Lincoln Way, Ames, IA 50010.

This rule is intended to implement Iowa Code sections 452A.59, 452A.64 and 452A.69.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 604
“License Examination”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)“j” and 321.186

State or federal law(s) implemented by the rulemaking: Iowa Code sections 307.12(1)“j,” 321.1, 321.2, 321.3, 321.13, 321.20A, 321.174, 321.177, 321.178, 321.178A, 321.180 through 321.181, 321.186, 321.186A, 321.189, 321.193, 321.196, 321.198 and 321.210

Public Hearing

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

April 11, 2025
1 to 1:30 p.m.

[Microsoft Teams Link](#)

Or dial: 515.817.6093

Conference ID: 170 430 735

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 purpose of this proposed chapter is to comply with Iowa Code sections 321.177 and 321.186. Iowa Code section 321.177 prohibits the Department from issuing a driver’s license to an applicant who fails to pass an examination or is unable to operate a motor vehicle safely due to a physical or mental disability. Iowa Code section 321.186 authorizes the Department to examine an applicant for a driver’s license to determine an applicant’s ability to operate a motor vehicle safely.

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 proposed 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 qualifications required.

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 proposed chapter will create a positive impact by producing a more user-friendly version that drivers rely on for understanding how to qualify for 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 benefits of the proposed rules are consistency and transparency in the processes and requirements for driver's license examination.

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's rules adhere to national best practices for performing driver's license examinations.

- **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 604 and adopt the following new chapter in lieu thereof:

CHAPTER 604
LICENSE EXAMINATION

761—604.1(307,321) Authority and scope.

604.1(1) The department is authorized to determine by examination an applicant's ability to operate motor vehicles safely upon the highways and to issue all driver's licenses.

604.1(2) This chapter applies to the examination for all driver's licenses. Information on the additional examination procedures and requirements for a commercial driver's license or commercial learner's permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.2, 321.3, 321.13, 321.177 and 321.186.

761—604.2(307,321) Definitions.

“*Binocular field of vision*” is the sum of the temporal measurements or the sum of the nasal measurements.

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

“*Monocular field of vision*” is the sum of the temporal measurement and the nasal measurement for one eye.

“*Representative vehicle*” is a vehicle that is characteristic of and requires operating skills comparable to those vehicles that may legally be operated under the class of license or endorsement desired.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.174 and 321.186.

761—604.3(307) Information and forms.

604.3(1) Applications, forms and information about driver's license examinations are available at any driver's license service center. Assistance is also available by mail at 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 515.244.8725; by facsimile at 515.239.1837; or on the department's website at www.iowadot.gov/mvd/driverslicense/driverslicense/descriptions.

604.3(2) The “Iowa Driver Manual” and the “Iowa Motorcycle Operator Manual” are also available from the department and on the department's website.

This rule is intended to implement Iowa Code section 307.12(1)“j.”

761—604.4(307,321) Examination.

604.4(1) An examination is to include:

- a. A vision screening if the person has not filed a vision report.
- b. A knowledge test of Iowa traffic laws and highway signs.
- c. A driving test of the person's ability to operate a motor vehicle.

604.4(2) The examination required for a driver's license depends upon the class of license requested, applicable endorsements and the qualifications of the applicant.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.186 and 321.186A.

761—604.5(307,321) Vision screening.

604.5(1) *Method.* Prior to issuance, the department will use a vision screening instrument to screen the applicant's vision. An applicant who uses corrective lenses may be screened with or without the corrective lenses.

604.5(2) *Report.* A vision report measuring visual acuity level and field of vision is to be submitted on Form 430032 signed by a licensed vision specialist within 30 days prior to submission to the department for consideration. In lieu of Form 430032, a letter signed by a licensed vision specialist may be accepted if it contains all the information specified on Form 430032.

604.5(3) *Exception for persons renewing electronically.* An applicant renewing a driver's license electronically pursuant to 761—subrule 605.25(7) is not required to complete a vision screening or submit a vision report. This subrule does not preclude the department from requiring a vision

screening or vision report of a person who has renewed a driver's license electronically when the department has reason to believe that the person is not capable of operating a motor vehicle safely.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.186, 321.186A and 321.196.

761—604.6(307,321) Vision standards. The visual acuity and field of vision standards for licensing and the applicable restrictions are as follows.

604.6(1) *Visual acuity standards.*

a. When the applicant is screened without corrective lenses. If the visual acuity is 20/40 or better with both eyes or with the better eye, no restriction will be imposed. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant is to be restricted from driving when headlights are required.

b. When the applicant is screened with corrective lenses. If the visual acuity is 20/40 or better with both eyes or with the better eye, the applicant is to be restricted to wear corrective lenses when driving. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant is to be restricted from driving when headlights are required and to wear corrective lenses when driving.

c. Other standards.

(1) If the visual acuity in the left eye is less than 20/100, the applicant is to be restricted to driving a vehicle with both left and right outside rearview mirrors. However, if the applicant has a visual acuity of 20/40 in the right eye and less than 20/100 in the left eye without corrective lenses and has corrective lenses that improve the vision in the left eye to better than 20/100, the applicant is to have the option of being restricted to driving with corrective lenses or driving a vehicle with both left and right outside rearview mirrors.

(2) A driving test is required prior to issuance the first time visual acuity measures below 20/40.

604.6(2) *Field of vision standards.*

a. If the binocular field of vision is at least 140 degrees, no restriction will be imposed.

b. If the binocular field of vision is less than 140 degrees but at least 110 degrees, or one eye has a monocular field of vision of at least 100 degrees, the applicant is to be restricted to driving a vehicle with both left and right outside rearview mirrors.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.186, 321.193 and 321.196.

761—604.7(307,321) Vision referrals.

604.7(1) *Referral.*

a. If, during any vision screening, an applicant cannot attain 20/40 with at least one eye but can attain 20/70 with at least one eye, the department will not issue a license to the applicant and will advise the applicant to consult a licensed vision specialist.

b. A vision report, pursuant to subrule 604.5(2), is required before the department will reconsider licensing.

604.7(2) *License.* If the applicant's license is valid, the department may issue a temporary driving permit with restrictions appropriate to the applicant's visual acuity level and field of vision. If the applicant's license is valid for less than 30 days, the temporary driving permit will not be valid for more than 60 days from the end of the current license validity.

604.7(3) *Report.* If the vision report recommends a restriction, the department will issue a restricted license even though it would not be required by departmental standards.

604.7(4) *Applicant refusal.* If an applicant refuses to consult a licensed vision specialist, the department will issue or deny the license based on the results achieved on the vision screening.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.181, 321.186, 321.186A, 321.193 and 321.196.

761—604.8(307,321) Vision screening results.

604.8(1) *Two-year license.* An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye will be issued a two-year license.

604.8(2) *License denied.*

a. An applicant who cannot attain a visual acuity of 20/70 with both eyes or with the better eye will not be licensed subject to discretionary issuance under subrule 604.8(4).

b. If the applicant's binocular field of vision is less than 110 degrees or the monocular field of vision is less than 100 degrees, the applicant will not be licensed subject to discretionary issuance under subrule 604.8(4).

604.8(3) *Reapplication.* An applicant who cannot meet the vision standards in subrule 604.8(2) may reapply when the vision improves and the applicant meets the vision standards. If a suspension or denial notice was served, reapplication is to be made to the motor vehicle division at the address in subrule 604.3(1) or at a driver's license service center.

604.8(4) *Discretionary issuance.*

a. An applicant whose license is restricted under rule 761—604.6(321) or who cannot meet the vision standards in subrule 604.8(2) may submit a written request for review by the department.

b. Based upon consideration of the applicant's vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist and traffic conditions in the vicinity of the applicant's residence, the department may recommend issuing a license with restrictions suitable to the applicant's capabilities subject to the following:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/199 with both eyes or with the better eye will not be licensed.

(3) An applicant who cannot attain a binocular or monocular field of vision of 75 degrees may be considered for licensing only after recommendation by the medical advisory board.

(4) An applicant who cannot attain a binocular or monocular field of vision of 21 degrees will not be licensed.

c. The department's recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.186, 321.186A, 321.193 and 321.196.

761—604.9(307,321) Knowledge test.

604.9(1) *Written test.* A knowledge test is used to determine an applicant's ability to read and understand Iowa traffic laws and the highway signs that regulate, warn and direct traffic. The department reserves the right to revise a test at any time and will declare the minimum passing score for each test.

604.9(2) *Oral test.* An applicant who is unable to read or understand a written test may request an oral test. The oral test may be administered by an examiner or by an automated testing device.

604.9(3) *Test score.* The test score result is valid for 180 days.

604.9(4) *Retesting.* An applicant who fails a knowledge test may repeat the test at the discretion of the examiner.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 321.186.

761—604.10(307,321) Knowledge test requirements and waivers.

604.10(1) *Knowledge test requirements.* The knowledge test requirements are as follows:

a. An operator's knowledge test is required for all classes of noncommercial driver's licenses and all types of special driver's licenses and permits.

b. A motorcycle knowledge test is required for all:

- (1) Motorcycle instruction permits.
- (2) Class M driver's licenses.
- (3) Motorcycle endorsements.

604.10(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.10(1) if the applicant meets one of the following qualifications:

- a.* The applicant has passed the same type of test for another Iowa driver's license or an equivalent out-of-state license that is still valid or has expired within the past year.
- b.* The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.
- c.* The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.
- d.* The applicant is renewing an Iowa driver's license or endorsement within a period of one year after the expiration date of the license or endorsement.
- e.* The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.1(8), 321.180 through 321.180B, 321.186, 321.189, 321.196 and 321.198.

761—604.11(307,321) Driving test. A driving test is used to determine an applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle under actual traffic conditions. The test may also be called a road test, field test or driving demonstration. A motorcycle skills test is an off-street demonstration of an applicant's ability to control the motorcycle in a set of standard maneuvers, and a motorcycle driving test is an on-street demonstration.

604.11(1) Vehicle type and safety.

- a.* For the driving test, the applicant is to provide a representative vehicle and proof of financial responsibility for the representative vehicle.
- b.* The examiner or other authorized personnel will visually inspect the vehicle. If a vehicle is illegal or unsafe or is not a representative vehicle, the examiner will refuse to administer the test until an acceptable vehicle is provided.

604.11(2) Criteria and route. Form 430024 explains the test criteria and will be given to the applicant before any operator's driving test. The applicant will be directed over one of the routes that have been preselected by the examiner to test driving skills and maneuvers.

604.11(3) Test score. The examiner will use the standard departmental score sheet to record the test score and the licensing decision. At the end of the test, the examiner will explain the test score to the applicant. The test score result is valid for 180 days.

604.11(4) Retesting. An applicant who fails a driving test may repeat the test at the discretion of the examiner.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.174 and 321.186.

761—604.12(307,321) Driving test requirements and waivers for noncommercial driver's licenses.

604.12(1) Driving test requirements. The driving test requirements for noncommercial driver's licenses are as follows:

- a.* *Instruction permits.* An applicant is not required to obtain an instruction permit for a driving test.
- b.* *Class C driver's licenses.* For a Class C driver's license other than an instruction permit or a motorized bicycle license, an operator's driving test is to be in a representative vehicle, except that an autocycle as defined in Iowa Code section 321.1(6A) cannot be used for the driving test.
- c.* *Class D driver's licenses.* For a Class D driver's license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule 605.7(3), is required.

d. Class M driver's licenses and motorcycle endorsements. The driving test for a Class M driver's license or motorcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street motorcycle driving test.

(1) The off-street motorcycle skill test is required. The on-street motorcycle driving test is also required if the applicant does not have another driver's license that permits unaccompanied driving. Neither motorcycle test is required for the purposes of operating an autocycle.

(2) A motorcycle is to be used for the motorcycle skills test and motorcycle driving test. If a three-wheeled motorcycle is used, the driver's license will be restricted: "Not valid for 2-wheel vehicle." An autocycle is not considered a motorcycle or a three-wheeled motorcycle for testing purposes.

e. Motorized bicycle licenses. For a motorized bicycle license, an off-street or on-street driving test may be required. A motorized bicycle is to be used for the test.

604.12(2) Driving test waivers. The department may waive a required driving test listed in subrule 604.12(1) if the applicant meets one of the following qualifications:

a. The applicant has successfully completed the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education, other than driver education by a teaching parent under rule 761—634.11(321), for an applicant's first Class C driver's license that permits unaccompanied driving other than motorized bicycle; motorcycle rider education for a Class M driver's license or motorcycle endorsement; and motorized bicycle education for a motorized bicycle license. However, if an applicant is under the age of 18, a driving test is required if requested by the applicant's parent, guardian or course instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa driver's license or endorsement within a period of one year after the expiration date of the license or endorsement.

c. The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

d. The applicant has passed the same type of driving test for another Iowa driver's license or endorsement that is still valid or has expired within the past year.

e. The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

f. The applicant is applying for a Class C Iowa driver's license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.

g. The applicant is applying for a Class D Iowa driver's license and has an equivalent out-of-state license that is valid or has expired within the past year.

h. The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past year.

i. The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.1, 321.174, 321.178, 321.178A, 321.180 through 321.180B, 321.186, 321.189, 321.193, 321.196 and 321.198.

761—604.13(307,321) Failure to pass examination.

604.13(1) An applicant who fails to pass a required examination or reexamination will not be licensed.

a. If the applicant does not have a valid Iowa license, the department will deny the applicant a license.

b. If the applicant has a valid Iowa license, the department will suspend the license for incapability. However, if the applicant's license is valid for less than 30 days, the department will deny further licensing. The department will serve a notice of suspension or denial.

c. More information regarding denials and suspensions for incapability can be found in rule 761—615.4(321).

d. An applicant may contest a denial or suspension in accordance with rule 761—615.38(321).

604.13(2) Limitations on the hearing and appeal process.

a. After a suspension or denial for failure to pass a required knowledge or driving test, a person who contests the suspension or denial has exhausted the person's administrative remedies after three unsuccessful attempts to pass the required test.

b. After the three unsuccessful attempts, no further testing will be allowed until six months have elapsed from the date of the last test failure and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the motor vehicle division at the address in subrule 604.3(1).

c. Notwithstanding paragraphs 604.13(2) "a" and "b," no testing will occur if the department determines that it is unsafe to allow testing.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.177, 321.180A and 321.210.

761—604.14(307,321) Reinstatement. A person whose license has been suspended or denied for failure to pass a required examination or reexamination is to meet the vision standards for licensing and pass the required examination(s) before an Iowa license will be issued.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.177 and 321.186.

761—604.15(307,321) Special reexaminations.

604.15(1) As provided in Iowa Code section 321.186, the department may require a special reexamination of any licensee. The reexamination may consist of one or more of the following:

- a.* Medical report.
- b.* Vision report.
- c.* Vision screening.
- d.* Cognitive screening.
- e.* Knowledge test.
- f.* Driving test.

604.15(2) The department may require a special reexamination when a licensee has been involved in a fatal motor vehicle accident and the investigating officer's report of the accident indicates the licensee contributed to the accident.

604.15(3) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officer's report of each accident lists one of the following "Driver/Vehicle Related Contributing Circumstances" for the licensee:

- a.* Ran traffic signal.
- b.* Ran stop sign.
- c.* Passing, interfered with other vehicle.
- d.* Left of center, not passing.
- e.* Failure to yield right-of-way at uncontrolled intersection.
- f.* Failure to yield right-of-way from stop sign.
- g.* Failure to yield right-of-way from yield sign.
- h.* Failure to yield right-of-way making left turn.
- i.* Failure to yield right-of-way to pedestrian.
- j.* Failure to have control.

604.15(4) The department may require a special reexamination when a licensee has been involved in an accident and the investigating officer's report lists a driver condition for the licensee of "fatigue or asleep."

604.15(5) The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer's or the person's own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes but is not limited to any one of the following:

- a.* The licensee made a left turn that resulted in the accident.
- b.* The licensee failed to yield the right-of-way at a stop sign.
- c.* The licensee failed to yield the right-of-way at a yield sign.
- d.* The licensee failed to yield the right-of-way at an uncontrolled intersection.
- e.* The licensee failed to yield the right-of-way at a traffic control signal.
- f.* The licensee's vision may be a contributing factor to an accident.
- g.* The licensee has a physical disability-related license restriction other than "corrective lenses" and the accident involved one of the circumstances listed in paragraphs 604.15(5) "*a*" through "*f*."
- h.* The investigating officer's report lists a driver condition for the licensee of "loss of consciousness."
- i.* The investigating officer's report lists a driver condition for the licensee of "illness which resulted in the accident."

604.15(6) The department may require a special reexamination when the department receives an accident report or a recommendation by a peace officer, a court or a properly documented citizen's request. A factor that may indicate a need for reexamination includes but is not limited to any one of the following:

- a.* Loss of consciousness.
- b.* Confusion, disorientation or dementia.
- c.* Inability to maintain a vehicle in the proper lane.
- d.* Repeatedly ignoring traffic control devices.
- e.* Inability to interact safely with other vehicles.
- f.* Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.
- g.* Illness that resulted in an accident.

This rule is intended to implement Iowa Code sections 307.12(1) "*j*," 321.177, 321.186 and 321.210.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 630
“Nonoperator’s Identification”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.190

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.13, 321.181, 321.189, 321.190, 321.195 and 321.216 through 321.216C; the REAL ID Act of 2005 (49 U.S.C. Section 30301) 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:

April 11, 2025
2 to 2:30 p.m.

[Microsoft Teams Link](#)
Or dial: 515.817.6093
Conference ID: 912 465 408

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 purpose of this chapter is to comply with Iowa Code section 321.190 and the federal REAL ID Act, which require the Department to adopt rules to administer nonoperator’s identification cards and to administer REAL ID nonoperator’s identification cards 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 proposed chapter beyond what is required by the underlying statute.

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

Persons seeking to obtain nonoperator’s identification cards 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:**

The result of reorganizing, streamlining and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version that Iowans would rely on for understanding how to obtain nonoperator's identification cards.

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 benefits of the proposed rules are consistency and transparency on the processes and requirements for obtaining a nonoperator's identification card.

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

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 nonoperator's identification cards.

• **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 630 and adopt the following new chapter in lieu thereof:

CHAPTER 630
NONOPERATOR'S IDENTIFICATION

761—630.1(321) General information.

630.1(1) The department will issue a nonoperator's identification card only to an Iowa resident who does not have a driver's license. However, a card may be issued to a person holding a temporary permit under Iowa Code section 321.181.

630.1(2) Definitions.

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

"Temporarily present in this state" means a person who has temporary lawful status as defined in 6 CFR Section 37.3 effective January 1, 2024.

630.1(3) Applications, forms and information concerning the nonoperator's identification card 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; by telephone at 515.244.8725; by facsimile at 515.239.1837; or on the department's website at www.iowadot.gov/mvd/driverslicense/Fees-and-license-type#54672691-id-card-only.

761—630.2(321) Application and issuance.

630.2(1) An applicant for a nonoperator's identification card is to complete and sign an application form at a driver's license service center. The signature shall be without qualification and contain only the applicant's usual signature without any other titles, characters or symbols.

630.2(2) The applicant is to present proof of identity, date of birth, social security number, Iowa residency, current residential address and lawful status as required by rule 761—601.5(321). If applicable, submission of a parent's, guardian's, or custodian's consent is also required in accordance with rule 761—601.6(321). The applicant or a current cardholder may provide the department with emergency contact information in accordance with rule 761—601.3(321).

630.2(3) The nonoperator's identification card will be coded for identification only as explained on the reverse side of the card. A card issued to a person who is a foreign national who is temporarily present in this state shall be issued only for the length of time the person is authorized to be present in the United States as verified by the department pursuant to 6 CFR Section 37.21, not to exceed two years. However, if the person's lawful status has no expiration date, the card shall be issued for a period of no longer than one year pursuant to 6 CFR Section 37.21(b)"1."

630.2(4) Upon the request of the cardholder, the department may indicate on the nonoperator's identification card any of the following:

- a. That the cardholder has a medical condition.
- b. That the cardholder is a donor under the uniform anatomical gift law.
- c. That the cardholder has in effect a medical advance directive.
- d. That the cardholder is hard of hearing or deaf.
- e. That the cardholder is a veteran.

(1) To be eligible for a veteran designation, the cardholder must be an honorably discharged veteran of the armed forces of the United States, the national guard or reserve forces as described in Iowa Code section 35.1. A cardholder who requests a veteran designation may provide one of the following:

1. Form 432035, properly completed by the cardholder and a designee of the Iowa department of veterans affairs.
2. Certification of release or discharge from active duty, DD Form 214, to the department indicating that the cardholder was honorably discharged from active duty.

(2) A cardholder who was a member of the national guard or reserve forces and who applies directly to the department must present a DD Form 214, which indicates that the cardholder was honorably discharged after serving for at least a minimum aggregate (total) of 90 days of active duty service for purposes other than training. A cardholder who was a member of the national guard or reserve forces and who has a discharge document other than a DD Form 214 must submit Form

432035, properly completed by the cardholder and a designee of the Iowa department of veterans affairs.

(3) The department may consult with and defer to the Iowa department of veterans affairs regarding what constitutes a properly completed DD Form 214 and veteran status in general.

f. That the cardholder has autism spectrum disorder.

630.2(5) No issuance fee is to be charged for a person whose license has been suspended for incapability pursuant to rule 761—615.14(321), who has been denied further licensing in lieu of a suspension for incapability pursuant to rule 761—615.4(321), or who voluntarily surrenders the person's license in lieu of suspension for incapability pursuant to rule 761—615.14(321).

630.2(6) An applicant who is a foreign national who is temporarily present in this state must provide documentation of lawful status as required by 761—subrule 601.5(4) at each renewal.

630.2(7) A person who seeks a nonoperator's identification card 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 nonoperator's identification card") effective January 1, 2024, must meet and comply with all lawful requirements for an Iowa nonoperator's identification card 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 nonoperator's identification card is subject to a mandatory facial image capture that meets the requirements of 6 CFR Section 37.11(a). A REAL ID nonoperator's identification card 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 nonoperator's identification card must include all information and markings required by 6 CFR Section 37.17. Nothing in this subrule requires a person to obtain a REAL ID nonoperator's identification card.

630.2(8) A nonoperator's identification card issued to a foreign national who is temporarily present in this state shall include the following statement on the face of the card: "limited term."

630.2(9) A nonoperator's identification card that is not issued as a REAL ID nonoperator's identification card as described in subrule 630.2(7) is to include the following statement on the face of the card: "not for REAL ID Act purposes" as required by 6 CFR Section 37.71 and any subsequent guidance issued by the U.S. Department of Homeland Security.

630.2(10) The department may determine means or methods for electronic renewal of a nonoperator's identification card.

a. An applicant who meets the following criteria may apply for electronic renewal:

- (1) The applicant is at least 18 years old.
- (2) The applicant's photo was updated at the applicant's last issuance or renewal.
- (3) The applicant's nonoperator's identification card has not been expired for more than one year.
- (4) The department's records show the applicant is a U.S. citizen.
- (5) The applicant's nonoperator's identification card is not marked "valid without photo."
- (6) The applicant is not seeking to change any of the following as it appears on the applicant's nonoperator's identification card:

1. Name.
2. Date of birth.
3. Sex.

b. An applicant who has not previously been issued a REAL ID nonoperator's identification card may not request a REAL ID nonoperator's identification card by electronic renewal.

630.2(11) An applicant for a nonoperator's identification card is to surrender all other driver's licenses and nonoperator's identification cards, other than a temporary permit held under Iowa Code section 321.181. This includes any driver's licenses or nonoperator's identification cards 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 nonoperator's identification card electronically pursuant to subrule 630.2(10) is to destroy the previous nonoperator's identification card upon receipt of a renewed nonoperator's identification card.

761—630.3(321) Duplicate card.

630.3(1) *Lost, stolen or destroyed card.* To replace a nonoperator's identification card that is lost, stolen or destroyed, the cardholder shall provide the cardholder's full legal name, date of birth and social security number, all of which must be verified by the department, and pay the statutory replacement fee. A cardholder subject to 761—paragraph 601.5(2)“b” is to provide the applicant's U.S. Customs and Immigration Services number, which will be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the cardholder's identity matches the identity of record and will not issue the replacement card if the cardholder's identity is questionable, cannot be determined or otherwise does not match the identity of record. If the cardholder's current residential address, name, date of birth or sex designation has changed since the previous card was issued, the cardholder is to comply with 761—subrule 605.11(2).

630.3(2) *Voluntary replacement.* To voluntarily replace a nonoperator's identification card, the cardholder is to surrender to the department the card to be replaced. The reasons a card may be voluntarily replaced and any additional supporting documentation required are the same as those listed in 761—paragraphs 605.11(2)“a” through “j.”

630.3(3) *Replacement upon attaining the age of 21.*

a. A cardholder, upon attaining the age of 21, who is otherwise eligible for a nonoperator's identification card, is eligible to electronically apply for a replacement card under this rule for the unexpired months of the card, regardless of whether the most recent issuance occurred electronically.

b. Except for the requirements in 761—subparagraphs 605.25(7)“a”(1) and (2), the cardholder must meet the eligibility requirements listed in 761—paragraph 605.25(7)“a” to replace the card electronically and must also meet the following criteria:

(1) The cardholder is at least 21 years old.

(2) The cardholder currently holds a nonoperator's identification card marked “Under 21” as provided in Iowa Code section 321.190.

These rules are intended to implement Iowa Code sections 321.13, 321.181, 321.189, 321.190, 321.195 and 321.216 through 321.216C; 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.

ARC 9003C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

**Proposing rulemaking related to rescission of chapters
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 3, “Commission on Aging,” and Chapter 23, “Aging and Disability Resource Center,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2024 Iowa Acts, House File 2673.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2673.

Purpose and Summary

This proposed rulemaking rescinds Chapter 3. The Commission on Aging was eliminated by 2024 Iowa Acts, House File 2673. The proposed rulemaking also rescinds Chapter 23 since the makeup and functions of Aging and Disability Resource Centers were modified by section 153 of 2024 Iowa Acts, House File 2673. To coincide with the rescission of Chapter 23, an Aging and Disability Resource Centers chapter will be repromulgated as 441—Chapter 224 in a separate proposed rulemaking.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on February 5, 2025. A public hearing was held on the following date(s):

- February 25, 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.

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 April 8, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319

Phone: 515.829.6021

Email: compliance@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 8, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 246 390 422 665
Passcode: C4Y3tQ7s

April 8, 2025
11 a.m. to 12 noon

Microsoft Teams
Meeting ID: 226 946 205 399
Passcode: f4dq3nM7

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 **17—Chapter 3.**

ITEM 2. Rescind **17—Chapter 23.**

ARC 9019C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to local emergency management and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 7, "Local Emergency Management," 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 29C.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 29C.9 and 2024 Iowa Acts, Senate File 2370.

Purpose and Summary

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

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 11, 2025

Fiscal Impact

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

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.

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 April 8, 2025. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 8, 2025 9:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via video/conference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
April 9, 2025 9:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via video/conference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

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 605—Chapter 7 and adopt the following new chapter in lieu thereof:

CHAPTER 7
LOCAL EMERGENCY MANAGEMENT

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

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

“Commission” means the same as defined in Iowa Code section 29C.2.

“Local emergency management agency” means the same as defined in Iowa Code section 29C.2.

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

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

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

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

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

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

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

- a. *Administration and finance.*

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Resource management. The commission shall:

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

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

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

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

d. Planning.

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

(2) Plans shall contain the following common elements:

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

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

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with a five-year schedule established by the commission, which shall include, at a minimum, a complete review, and

amendment as appropriate, at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion and of a minimum of 20 percent of the remaining annexes or portions of the plan shall be conducted on a yearly basis. The complete operations plan will be reviewed entirely, and amended as appropriate, every five years. A copy of the portions of the plan that are reviewed, regardless of amendment, must be certified and submitted annually as determined by the department for approval.

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

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

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

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

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

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

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

e. Direction, control and coordination.

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

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

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

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

f. Damage assessment.

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

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

g. Communications and warning.

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

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

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

i. Training.

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

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

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

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

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

j. Exercises.

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

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

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

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

k. Public education and information.

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

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

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

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

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

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

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

7.4(2) Political activity.

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

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

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

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

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

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

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

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

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

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

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

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

f. Prepare accurate reports.

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

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

i. Coordinate with agencies at all levels of government.

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

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

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

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

c. Upon completion of the requirements established in paragraphs 7.4(4) "a" and "b," a person must complete a minimum of 24 hours of state-approved emergency management training every 12 months as determined and communicated by the department.

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

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

f. An emergency management coordinator who has met the baseline requirements prior to October 1, 2006, will not be required to take any of the study courses prescribed by the director in accordance with paragraph 7.4(4) “a” to reestablish the person’s baseline.

605—7.5(29C) Commission personnel.

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

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

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

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

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

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

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

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

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

605—7.7(29C) Emergency management performance grant (EMPG) program. Emergency management is a joint responsibility of the federal government, the states, and their political subdivisions. “Emergency management” means all those activities and measures designed or undertaken

to mitigate against, prepare for, respond to, or recover from the effects of a human-caused, technological, or natural hazard. The purpose of the EMPG program is to provide the necessary assistance to commissions to ensure that a comprehensive emergency system exists for all hazards.

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

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

7.7(3) Allocation and distribution of funds.

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

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

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

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

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

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

- a. Appoint a qualified coordinator.
- b. Comply with continuing education requirements.
- c. Adopt a comprehensive emergency plan that meets current standards.
- d. Determine the mission of its agency.
- e. Show continuing progress in fulfilling the commission's duties and obligations.
- f. Conduct commission business according to the guidelines and rules established in this chapter.
- g. Enter into and file a cooperative agreement with the department by the stipulated filing date.
- h. Abide by state and federal regulations governing the proper disbursement and accountability for federal funds, equal employment opportunity and merit system standards.
- i. Accomplish work specified in one or more program areas, as agreed upon in the cooperative agreement, or applicable state or federal rule or statute.
- j. Provide the prescribed matching financial contribution.
- k. Expend funds for authorized purposes or in accordance with applicable laws, regulations, terms and conditions.
- l. Respond to, or cooperate with, state efforts to determine the extent and nature of compliance with the cooperative agreement.

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

7.7(6) *Corrective actions.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARC 9020C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to criteria for awards or grants and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 8, “Criteria for Awards or Grants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 29C.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 29C.9 and 2024 Iowa Acts, Senate File 2370.

Purpose and Summary

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

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 11, 2025

Fiscal Impact

Chapter 8 provides a framework for administering awards and grants and implements standing federal grant requirements. In the most recent fiscal year, the Department administered approximately \$141,388,000 in grant funding, passing through \$187,664,000 to fund local emergency management and recovery activities. These rules would be in place to make sure all state and federal regulations associated with the grants are followed. In the absence of these rules, it is possible that these grants would have to be recouped and the subrecipients would lose the funding.

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.

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 April 8, 2025. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 8, 2025 9 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via video/conference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
April 9, 2025 9 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via video/conference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

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 605—Chapter 8 and adopt the following new chapter in lieu thereof:

CHAPTER 8
CRITERIA FOR AWARDS OR GRANTS

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

605—8.2(29C,17A) Definitions.

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

“Department” means the same as defined in Iowa Code section 29C.2.

“Director” means the same as defined in Iowa Code section 29C.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARC 9017C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to mass notification and emergency messaging system and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to rescind Chapter 15, "Mass Notification and Emergency Messaging System," 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 29C.17A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 29C.17A.

Purpose and Summary

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

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025. A public hearing was held on the following date(s):

- February 11, 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.

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 April 8, 2025. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 8, 2025 8:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via video/conference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
April 9, 2025 8:30 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa Via video/conference call using meeting link: meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

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 605—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
MASS NOTIFICATION AND EMERGENCY MESSAGING SYSTEM

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

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

“*Commission*” means the same as defined in Iowa Code section 29C.2.

“*Department*” means the same as defined in Iowa Code section 29C.2.

“*Director*” means the same as defined in Iowa Code section 29C.2.

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

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

605—15.3(29C) Application for access.

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

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

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

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

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

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

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

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

- a.* Introductory paragraphs that provide a summary of, the purpose of, and the authorities for the operational plan and procedures document.
- b.* A description of the system and a listing of the types of imminent emergency alerts and public safety-related information that will be communicated to the public via the system.
- c.* The contact information for the individual who will function as the state agency's or commission's administrator for the system and who will be the primary contact point for the department and system vendor.
- d.* A listing of those positions or individuals that are authorized to initiate emergency alerts and mass notification messages via the system. These individuals shall complete any federally specified training needed to access any federal messaging systems that are utilized by the statewide system.
- e.* A listing of those positions or individuals that are authorized to conduct system database maintenance.
- f.* The detailed process by which emergency alerts or mass notification messages will be developed, reviewed, and authorized for dissemination.
- g.* A listing by the commission of any memorandums of understanding completed with neighboring counties for the purpose of allowing cross-border emergency alerts or mass notification messaging when an incident will impact the public outside the incident county within 30 minutes and will cause the public to be endangered if action is not taken by the public. Copies of such agreements shall be included within the operational plan and procedures document.
- h.* A glossary of definitions for message types that can be issued by the system.

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

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

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

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

ARC 9016C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rulemaking related to behavioral health service system
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 25, "Disability Services Management," and Chapter 34, "Alternative Diagnostic Facilities," and to adopt new Chapter 300, "Definitions," Chapter 301, "Behavioral Health Services System Eligibility and Services," Chapter 302, "Behavioral Health Administrative Service Organizations," Chapter 304, "District Behavioral Health Advisory Councils," Chapter 305, "Mental Health Advocates," and Chapter 310, "Data Collection," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2024 Iowa Acts, House File 2673.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2673.

Purpose and Summary

This proposed rulemaking creates new chapters to implement the State's updated behavioral health service system pursuant to 2024 Iowa Acts, House File 2673. The proposed rulemaking also rescinds existing chapters that are no longer applicable to the new behavioral health service system. Finally, the proposed rulemaking makes conforming changes to some existing language to reflect the funding changes resulting from the legislation.

The new behavioral health service system will support equitable statewide access to all services offered through the behavioral health service system and offer specialized services with a focus on at-risk populations, including but not limited to children, youth, young adults, individuals with disabilities, pregnant and parenting women, older adults, and people with limited access to financial resources.

Citations in the proposed rules to Iowa Code chapter 225A and sections therein are to that chapter as enacted by 2024 Iowa Acts, House File 2673, effective July 1, 2025.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on February 5, 2025. A public hearing was held on the following date(s):

- February 25, 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.

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 April 8, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
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:

April 8, 2025
1 to 2 p.m.

Microsoft Teams
Meeting ID: 269 346 023 061
Passcode: rB6xd97g

April 8, 2025
3 to 4 p.m.

Microsoft Teams
Meeting ID: 287 225 010 706
Passcode: qB6f8ic6

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 **441—Chapter 25**.

ITEM 2. Rescind and reserve **441—Chapter 34**.

ITEM 3. Adopt the following new Title XVIII to precede **441—Chapter 300**:

TITLE XVIII

BEHAVIORAL HEALTH SERVICES

ITEM 4. Adopt the following new 441—Chapter 300:

CHAPTER 300

DEFINITIONS

441—300.1(225A) Definitions.

“*Access funds*” means funding provided to a behavioral health safety net provider by a behavioral health administrative services organization to support enhanced service delivery, maintain access to services, and fund other necessary expenses that fall outside of the scope and payment structures of other available funding. Access funds may include but are not limited to startup funding to establish or expand access to services; costs associated with maintaining access to services; data and continuous quality improvement activities to identify, implement, and monitor critical performance measures; and workforce development to recruit, retain, and develop highly qualified staff to provide behavioral health services.

“*Advocate*” means advocate as defined in Iowa Code section 229.1.

“*At-risk individuals*” means individuals with access limits or functional needs (temporary or permanent) that indicate enhanced risk of development or exacerbation of a behavioral health condition or interfere with their ability to access care.

“*At-risk populations*” means groups of children, youth, young adults, adults, or older adults at higher risk of developing a behavioral health condition, including but not limited to individuals with disabilities, pregnant and parenting women, people with limited English proficiency, individuals with limited financial resources, people without access or means to access transportation, or individuals who lack a system of social support.

“*Behavioral health*” means mental health and addictive disorders and is inclusive of but not limited to mental illness, substance use, problem gambling, and tobacco and nicotine dependence.

“Behavioral health administrative services organization” or *“BH-ASO”* means the lead entities designated by the department to plan, develop, coordinate, and ensure behavioral health services throughout a district in accordance with the statewide behavioral health service system plan.

“Behavioral health care” means an integrated, recovery-oriented approach to care that acknowledges co-occurring conditions are the expectation, not the exception, and contemplates the full continuum of behavioral health prevention, education, early intervention, assessment, diagnosis, treatment, recovery, and crisis services and supports.

“Behavioral health condition” means the same as defined in Iowa Code section 225A.1.

“Behavioral health safety net service providers” or *“safety net providers”* means agencies that are primarily publicly funded; provide behavioral health services and supports with a focus on uninsured and underinsured individuals, at-risk populations and individuals, or special or targeted populations; coordinate care for individuals served; and meet minimum access standards. Behavioral health safety net service providers may receive access funds, training, tools, and technical assistance to provide a level of accessibility beyond that of other behavioral health providers.

“Behavioral health services” means services under any of the following domains on the behavioral health service continuum: prevention, early intervention, treatment, recovery, crisis services, and recovery supports.

“Behavioral health service system” means the same as defined in Iowa Code section 225A.1.

“Conflict of interest” means any activity that interferes or gives the appearance of interference with the exercise of professional discretion and impartial judgment.

“County of residence” means the same as defined in Iowa Code section 331.190.

“County of venue” means the county in which the Iowa Code chapter 229 commitment was filed pursuant to Iowa Code section 229.44.

“County where the individual is located” means the individual’s county of residence as defined in Iowa Code section 331.190 or, if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility, the county in which the residential or other treatment facility is located.

“Crisis navigation” means activities to ensure that an individual in crisis is able to access appropriate crisis services in a timely manner and to transition an individual from crisis services to postcrisis care. This includes but is not limited to bed finding, coordination of transportation, system navigation, coordination of warm handoffs, and securing placements appropriate to meet individual needs.

“Crisis services” means services that focus on the immediate de-escalation and relief of the distress associated with a behavioral health crisis, reduce the risk that an individual in a crisis harms themselves or others, and provide aftercare and connection to ongoing follow-up to ensure postcrisis stabilization and reduce the reliance on high-acuity care or more restrictive environments.

“District” means a substate geographic area determined by the department to define the geographic boundaries of the behavioral health service system.

“District behavioral health service system plan” or *“district plan”* means a plan developed by the district BH-ASO and approved by the department to ensure access to behavioral health care and behavioral health services throughout a district.

“District contract” means a contract between the department and a BH-ASO. These contracts shall meet all applicable requirements of state and federal law.

“Early intervention” means intervention, service, or support provided to at-risk individuals to ameliorate or relieve early presenting symptoms prior to the development of a behavioral health condition or disorder.

“Education” means disseminating behavioral health knowledge or building resiliency skills through structured learning processes, including support of critical life and social skills such as decision-making, peer resistance and refusal, coping with stress, problem-solving, interpersonal communication, and improving judgment capabilities.

“Indicated prevention” means the same as defined in Iowa Code section 225A.1.

“Judicial district” means the same as described in Iowa Code section 602.6107.

“Minimum access standards” means standards to ensure equitable access to behavioral health services provided through the behavioral health service system, including but not limited to when and where services are made available, service and funding eligibility criteria, and behavioral health safety net service provider requirements.

“Prevention” means information dissemination; prevention education; alternative activities; wellness promotion; organizing, planning, and enhancing community-based processes; developing environmental approaches; and problem identification and referral designed to prevent the onset, reduce the impact, and mitigate the effects of a behavioral health condition.

“Primary substance use prevention” or *“universal prevention”* means activities designed to address the total population for the purpose of preventing exposures to hazards that cause disease or injury; altering unhealthy or unsafe behaviors that can lead to disease, disorder, or injury; and increasing resistance to disease, disorder, or injury should exposure occur.

“Provider contract” means a contract between a BH-ASO and a provider of behavioral health services. These contracts shall meet all applicable requirements of state and federal law.

“Recovery supports” means nonclinical assistance that facilitates recovery, wellness, and connection between individuals in recovery, service providers, and other supports known to enhance people’s quality of life, including system navigation, peer recovery coaching, and peer support.

“Selective prevention” means the same as defined in Iowa Code section 225A.1.

“Special populations,” for the purposes of the substance use prevention, treatment, and recovery services block grant (SUPTRS BG), means pregnant women, women with dependent children, individuals who use drugs through intravenous injection, and individuals who use substances and have tuberculosis.

“State behavioral health service system plan” or *“state behavioral health plan”* means the same as defined in Iowa Code section 225A.1.

“System navigation” means in-person, online, and telephonic support for problem-solving and navigation of the services and supports available. System navigators ensure individuals and families who encounter barriers in accessing services and support are able to navigate health care, social services, and legal systems.

“Treatment” means clinical inpatient, outpatient, and residential care for individuals with a behavioral health condition or disorder diagnosed utilizing the criteria provided in the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA) (published 2013, with all changes and updates approved by the APA through July 1, 2025, incorporated herein). The type, length, and intensity/frequency of interventions used by a behavioral health provider are based on the presenting symptoms of the individual.

“Underinsured” means an individual who has insurance coverage, but coverage limitations render reimbursement for behavioral health services ordered by a behavioral health service provider unavailable. Underinsured does not mean insurance coverage that has denied authorization of a service, denied payment of a covered service, or recouped a claim paid.

“Uninsured” means an individual who does not have insurance or whose insurance coverage is terminated for short periods of time.

This rule is intended to implement Iowa Code chapters 225A and 229.

ITEM 5. Adopt the following new 441—Chapter 301:

CHAPTER 301

BEHAVIORAL HEALTH SERVICE SYSTEM ELIGIBILITY AND SERVICES

441—301.1(225A) Individual eligibility for behavioral health service system funding. To be eligible for behavioral health service system funding, an individual must meet the following financial and needs-based eligibility criteria.

301.1(1) Financial eligibility. Income requirements for adults and household income for children are as follows:

- a. Income equal to or less than 200 percent of the federal poverty level.

b. Income will be verified using the best information available.

c. Financial eligibility will be reviewed on an annual basis and may be reviewed more often in response to increases or decreases in income.

d. An individual who is eligible for medical assistance must apply for and exhaust such funding for services and supports prior to utilization of behavioral health service system funding.

301.1(2) *Resource requirements.* Individuals seeking behavioral services must have resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household.

a. The countable value of all countable resources, both liquid and nonliquid, will be included in the eligibility determination, except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.

c. The following resources will be exempt:

(1) A homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead will include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources will additionally be considered exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

301.1(3) *Needs-based eligibility.* An individual must:

a. Be a resident of Iowa or, if a minor, the custodial parent or legal guardian is a resident of Iowa.

b. At any time during the preceding 12-month period have had a behavioral health condition.

301.1(4) *Service-specific eligibility.* Individuals meeting financial and needs-based eligibility requirements may be subject to additional diagnostic, level of care, or admission requirements for services. Individuals receiving:

a. Twenty-three-hour observation and holding services must meet admission criteria set forth in 441—subrule 24.37(1).

b. Crisis stabilization community-based services must meet service eligibility requirements set forth in 441—subrule 24.38(1).

c. Crisis stabilization residential services must meet service eligibility requirements set forth in 441—subrule 24.39(1).

d. Substance use disorder treatment services must meet the following levels of the third edition of the American Society of Addiction Medicine (ASAM) Criteria as published by the ASAM and as amended to July 1, 2025:

(1) Level 1.0 for outpatient treatment services.

(2) Level 2.1 for intensive outpatient treatment services.

(3) Level 2.5 for partial hospitalization services.

(4) Level 3.1 for clinically managed, low-intensity residential services.

(5) Level 3.3 for clinically managed, medium-intensity residential services.

(6) Level 3.5 for clinically managed, high-intensity residential services.

(7) Level 3.7 for medically monitored inpatient services.

e. Assertive community treatment (ACT) services must meet service eligibility requirements set forth in 441—subrule 78.45(1).

f. Subacute services must meet admission requirements set forth in 481—subrule 71.13(2).

g. Outpatient competency restoration must have a court order to receive the service pursuant to Iowa Code section 812.6.

h. Psychiatric medical institutions for children (PMIC) services must meet certification of need requirements set forth in rule 481—41.9(135H).

301.1(5) *Exceptions.* Receipt of the following behavioral health services is as defined and is not subject to individual eligibility criteria in subrule 301.1(1), 301.1(2), or 301.1(3):

a. Prevention.

b. Early intervention services.

c. Crisis services.

d. Outpatient competency restoration.

e. Jail-based behavioral health services.

f. System navigation.

441—301.2(225A) The behavioral health care continuum.

301.2(1) *Behavioral health services.* Behavioral health services overseen by a BH-ASO will include ensuring access to the full continuum of behavioral health care, including:

a. Prevention services, including indicated prevention, primary substance use prevention and universal prevention, and selective prevention.

b. Early identification.

c. Early intervention services.

d. Crisis services, including immediate access to crisis assessment and evaluation; access centers; sobering centers; mobile crisis response; crisis-stabilization, community-based services; and crisis-stabilization, residential services.

e. Mental health outpatient treatment services, including screening, assessment, diagnosis, risk assessment, and crisis planning.

f. Mental health, high-intensity outpatient treatment services, including ACT, intensive outpatient programs (IOP), intensive psychiatric rehabilitation (IPR), partial hospitalization, and day treatment.

g. PMIC.

h. Mental health inpatient treatment.

i. Hospital alternatives, including subacute services, 23-hour observation and holding, and crisis respite services.

j. Substance use disorder outpatient treatment services, including assessment and evaluation services.

k. Substance use disorder intensive outpatient treatment services.

l. Substance use disorder partial hospitalization services.

m. Substance use disorder clinically managed residential treatment services.

n. Substance use disorder medically monitored inpatient services.

o. Recovery supports.

p. Peer support and peer recovery coaching.

q. Peer wellness and recovery community centers.

r. Transitional living and recovery housing programs.

s. Jail-based behavioral health services, including provision of behavioral health treatment and medications in jails.

t. Commitment-related services, including prescreening, secure transportation, legal representation, and mental health advocates.

u. Outpatient competency restoration.

v. Outreach, education, and engagement services.

w. Additional services deemed necessary for a district or statewide as determined by the district behavioral health service system plan and approved by the department.

301.2(2) *Additional requirements.* Additional requirements related to behavioral health services include crisis system navigation that must be available 24 hours per day, 7 days per week, 365 days per year.

301.2(3) *Option for waiting lists.* The department will maintain a waiting list of individuals denied access to the program due to lack of available funds. Waiting list information will include the date on which the individual was placed on the waiting list. If additional funds become available, the department will contact individuals on the list.

441—301.3(225A) Provider qualifications.

301.3(1) *Behavioral health safety net service providers.* Behavioral health safety net service providers, which are defined in rule 441—300.1(225A), are required to:

- a. Adhere to minimum access standards as set forth in 441—subrule 302.2(1).
- b. Accept behavioral health service system funds as payment in full for individuals served through behavioral health service system funding. The safety net provider may not bill individuals for missed appointments, or for copayments or other cost-sharing arrangements, except as described in individual eligibility standards in rule 441—301.1(225A).
- c. Work with BH-ASOs to coordinate care for the individuals the safety net provider serves, including making referrals to secure services and supports appropriate for the individual, coordinating warm handoffs to ensure continuity of care, coordinating transportation, and performing post-discharge follow-up.
- d. Notify the BH-ASO within seven days when a safety net provider is at or above 90 percent capacity to admit individuals in need of behavioral health services.

301.3(2) *Behavioral health service system provider eligibility.* The following persons or organizations are eligible to participate as behavioral health service system providers to the extent allowed under the scope of their licensure, certification, or accreditation:

- a. Hospitals providing inpatient psychiatric treatment or emergency department services licensed pursuant to Iowa Code chapter 135B.
- b. Providers of outpatient mental health services licensed to practice in the state of Iowa or accredited under 441—Chapter 24.
- c. Providers of crisis services accredited under 441—Chapter 24.
- d. Community mental health centers (CMHCs) accredited under 441—Chapter 24.
- e. Certified community behavioral health clinics (CCBHCs) certified by the department.
- f. Federally qualified health centers (FQHCs) certified by the Centers for Medicare and Medicaid Services (CMS).
- g. Providers of substance use disorder treatment programs and problem gambling treatment programs licensed pursuant to 641—Chapter 155.
- h. Local tobacco control programs designated by the department.
- i. Recovery community centers (RCCs) designated by the department.
- j. Providers of recovery support services (RSSs) designated by the department.
- k. Subacute mental health facilities licensed pursuant to 481—Chapter 71.
- l. PMICs licensed pursuant to 481—Chapter 41.
- m. Providers of prevention services designated by the department.
- n. Providers of early intervention services designated by the department.
- o. Recovery and peer support providers trained or certified through approved programs designated by the department.

441—301.4(225A) Appeal rights. The department will issue a notice of adverse action in accordance with 441—Chapter 16. The right to appeal will be given by the department in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 225A.

ITEM 6. Adopt the following new 441—Chapter 302:

CHAPTER 302
BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE ORGANIZATIONS

441—302.1(225A) Implementation and maintenance of programs and services.

302.1(1) *Authority to designate BH-ASOs.* The department will designate one BH-ASO for each district as set forth in Iowa Code chapter 225A. The department will enter into a contract with a designated BH-ASO to coordinate and oversee behavioral health services in one or more behavioral health district. If the department terminates its contract with a BH-ASO for any reason, the entity is no longer designated by the department as a BH-ASO.

302.1(2) *Community needs assessment.* A BH-ASO will complete an assessment of community needs to identify behavioral health service system strengths, gaps, and emerging issues within its district.

302.1(3) *District behavioral health service system plan.* A BH-ASO will collaborate with the district behavioral health advisory council and other stakeholders to develop a district behavioral health service system plan to describe all behavioral health services and supports and other activities in support of the behavioral health system to be delivered by the BH-ASO.

302.1(4) *BH-ASO operations.* A BH-ASO will implement its approved district plan and maintain operations necessary to meet its obligations under state and federal laws and regulations and as established in the district contract.

441—302.2(225A) Service availability and accessibility.

302.2(1) *Minimum access standards.* A BH-ASO will ensure available, accessible, and adequate numbers of providers, locations, and personnel for the provision of behavioral health services. At a minimum, access to services provided by behavioral health safety net service providers will meet the following standards:

a. Crisis assessment and evaluation. An individual will have immediate access to a crisis screening and will have a crisis assessment by an appropriately licensed or credentialed mental health or substance use disorder treatment professional within 24 hours of referral.

b. Access centers. An individual will have access to services within 60 minutes or 60 miles of an individual's residence.

c. Mobile crisis response. An individual will have an in-person, community-based response within 60 minutes.

d. Crisis-stabilization, community-based services. An individual will have access to services within the time frames set forth in 441—Chapter 24.

e. Crisis-stabilization, residential services. An individual will have access to services within the time frames set forth in 441—Chapter 24.

f. Mental health outpatient.

(1) The service will be located within 60 minutes or 60 miles of an individual's residence.

(2) During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact. When the assessed need is urgent, outpatient services shall be provided to an individual within one hour of presentation or 24 hours of telephone contact. When the assessed need is for routine care, outpatient services shall be provided to an individual within four weeks of the individual's request for appointment.

g. Assertive community treatment. The service will be available to all individuals within a district.

h. Mental health intensive psychiatric rehabilitation. An individual will have access to services within the time frames set forth in 441—Chapter 24.

i. Mental health inpatient. The service will be located within 60 minutes or 60 miles of an individual's residence in urban areas and within 90 minutes or 90 miles of an individual's residence in rural areas.

j. Substance use disorder outpatient treatment. An individual will have access to services within 60 minutes or 60 miles of the individual's residence.

k. Substance use disorder intensive outpatient services. An individual will have access to services within 60 minutes or 60 miles of an individual's residence.

l. Substance use disorder residential treatment services. An individual will have access to services within 60 minutes or 60 miles of an individual's residence.

m. Substance use disorder inpatient services. The service will be located within 60 minutes or 60 miles of an individual's residence in urban areas and within 90 minutes or 90 miles of an individual's residence in rural areas.

n. Outpatient competency restoration. The service will be available to all individuals within a district.

o. Twenty-three-hour observation and holding. An individual will have access to services within the time frames set forth in 441—Chapter 24.

p. Crisis respite. An individual will have access to services within the time frames set forth in 441—Chapter 24.

302.2(2) *Priority populations for substance use disorder treatment.* In addition to the standards in subrule 302.2(1), behavioral health safety net service providers of substance use disorder treatment will meet the following standards:

a. In accordance with 45 CFR Part 96, Subpart L, as amended to July 1, 2025, priority admission to substance use disorder treatment services must be offered to the following populations in this order:

- (1) Individuals who are pregnant and who use injection drugs.
- (2) Individuals who are pregnant.
- (3) Individuals who use injection drugs.
- (4) All others.

b. Individuals who are pregnant must be admitted to the recommended American Society of Addiction Medicine (ASAM) level of care within 48 hours of receiving the recommendation for treatment from a licensed substance use disorder treatment provider. If admission is not possible within 48 hours, the individual must be offered interim services as defined in 45 CFR 96.121 as amended to July 1, 2025, and must be referred to the statewide waitlist maintained by the department.

c. Individuals who report the use of injection drugs and are not pregnant must be admitted to the recommended ASAM level of care within 14 days of receiving the recommendation for treatment from a licensed substance use disorder treatment provider. If admission is not possible within 14 days, interim services must be offered within 48 hours and the admission deadline is then extended to 120 days.

302.2(3) *Free choice of providers.* A BH-ASO will ensure that individuals may receive services from any qualified network provider of the individual's choosing that is available to provide the services to them.

441—302.3(225A) Provider oversight and monitoring.

302.3(1) *Provider contracts.* To receive payment for services through a BH-ASO, providers of behavioral health services must have a provider contract with the BH-ASO. Providers that are eligible to enroll with the Iowa Medicaid program must also be enrolled as an Iowa Medicaid provider.

302.3(2) *Claim submission.* Providers of behavioral health services will submit claims for services on at least a monthly basis.

a. Claims for services rendered for persons eligible for Medicaid will be submitted to the managed care organization with which the person is enrolled in accordance with the managed care organization's claim submission policies.

b. Claims for services rendered for persons not eligible for Medicaid will be submitted to the Iowa Medicaid program according to the process set by the department for BH-ASO claims and will meet the following requirements:

(1) Claims will be submitted electronically on the proper claim forms following the requirements set forth in rule 441—80.2(249A).

(2) Claims will follow the time limits for claim submission set forth in rule 441—80.4(249A).

302.3(3) Provider monitoring. A BH-ASO will conduct monitoring activities to oversee providers of behavioral health services within the district and monitor the Iowa Medicaid provider sanction list and take the following actions:

a. For any behavioral health provider suspended by Medicaid, suspend participation in the BH-ASO provider network within 30 days.

b. For any behavioral health provider terminated by Medicaid, terminate participation in the BH-ASO provider network within 30 days.

These rules are intended to implement Iowa Code chapter 225A.

ITEM 7. Adopt the following new 441—Chapter 304:

CHAPTER 304 DISTRICT BEHAVIORAL HEALTH ADVISORY COUNCILS

441—304.1(225A) Definitions. For the purpose of this chapter, the following definitions apply:

“*Chairperson*” means the chairperson of the district behavioral health advisory council who has been elected by a majority of advisory council members.

“*District behavioral health advisory council*” or “*advisory council*” means the same as defined in Iowa Code section 225A.1.

441—304.2(225A) Appointment.

304.2(1) The members of the advisory council will be appointed by the BH-ASO in accordance with the parameters of Iowa Code section 225A.5.

304.2(2) The appointments will be for three-year staggered terms that expire on June 30.

304.2(3) Vacancies will be filled in accordance with requirements established in the district contract. Members appointed to fill a vacancy will serve for the balance of the unexpired term.

304.2(4) Absences.

a. Three unexcused absences in a 12-month period constitutes grounds for the BH-ASO to request nomination of an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson of the advisory council is charged with providing notification of absences to the BH-ASO.

441—304.3(225A) Officers.

304.3(1) Officers of the advisory council will consist of a chairperson and a vice chairperson, who will be elected at the first meeting of each fiscal year.

a. An officer may serve no more than three consecutive terms as chairperson or vice chairperson.

b. A vacancy in the office of chairperson will be filled by elevation of the vice chairperson.

c. A vacancy in the office of vice chairperson will be filled by election at the next meeting after the vacancy occurs.

d. A vacancy must be filled by an individual meeting the same qualifications as the departing advisory council member in accordance with Iowa Code section 225A.5.

304.3(2) Duties of officers.

a. The chairperson will:

(1) Preside at all meetings of the advisory council;

(2) Appoint subcommittees as deemed necessary; and

(3) Designate the chairperson of each subcommittee.

b. The vice chairperson will:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson will have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform other duties as may be assigned by the chairperson.

441—304.4(225A) Meetings.

304.4(1) The advisory council will establish a meeting schedule on an annual basis to conduct its business. There will be a minimum of four meetings per year.

304.4(2) A majority of appointed members constitutes a quorum.

304.4(3) When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership will be conducted without a quorum present.

441—304.5(225A) Subcommittees. The advisory council may designate one or more subcommittees to perform such duties as may be deemed necessary.

441—304.6(225A) Advisory council composition. The advisory council's composition will be developed and maintained pursuant to Iowa Code chapter 225A.

These rules are intended to implement Iowa Code section 225A.5.

ITEM 8. Adopt the following new 441—Chapter 305:

CHAPTER 305
MENTAL HEALTH ADVOCATES

441—305.1(229) Advocate appointment and qualifications. The board of supervisors of each county will appoint a person to act as an advocate representing the interests of individuals involuntarily hospitalized by the court under Iowa Code chapter 229. The advocate is hired by the board of supervisors and employed by the county.

305.1(1) Appointment. A person may be appointed and employed or contracted with as the advocate by one county or by multiple counties. Advocates may be appointed for counties in more than one judicial district or more than one district.

305.1(2) Qualifications. The advocate will meet the following qualifications:

a. Possess a bachelor's degree with 30 semester hours or equivalent quarter hours in a human services field, including but not limited to psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy, and at least one year of experience in the delivery of services to persons with mental illness; or

b. Hold an Iowa license to practice as a registered nurse and have at least three years of experience in delivery of services to persons with mental illness.

c. A person employed as an advocate on or before July 1, 2015, who does not meet the requirements of paragraph 305.1(2) "*a*" or "*b*" will be considered to meet those requirements so long as the person is continuously appointed as an advocate in the employing county.

d. A person employed as an advocate must pass criminal background, sex offender registry, and child and dependent adult abuse registry checks prior to the advocate's hire.

441—305.2(229) Advocate assignment. The committing court will assign the advocate from the county where the individual is located.

305.2(1) If the advocate assigned cannot serve the individual in an effective and efficient manner, the advocate may request another advocate to perform advocate duties on the individual's behalf. In the event that another advocate can better represent the individual on a longer-term basis, the advocate will request that the court transfer the individual to another advocate.

305.2(2) When a conflict of interest is identified between an advocate and an individual, the court and the advocate's county of employment will be notified and an alternative advocate will be assigned. The advocate's direct supervisor is responsible to monitor and ensure that the advocate does not have a conflict of interest. In instances when dual or multiple relationships are unavoidable, advocates should take steps to protect individuals and are responsible for setting clear, appropriate, and culturally sensitive boundaries. Advocates who anticipate a conflict of interest among the individuals receiving services

should clarify the advocate's role with the parties involved and take appropriate action to minimize any conflict of interest.

305.2(3) When the advocate assigned is not the advocate from the individual's county of residence, the advocate's county of employment may seek reimbursement from the BH-ASO for the district in which the individual's county of residence is located as outlined in Iowa Code section 229.19(1) "b."

305.2(4) An advocate will only be assigned to a child 17 years of age or under when the child is not represented by an attorney due to an existing child in need of assistance (CINA) or other juvenile court action pursuant to the Iowa Code.

441—305.3(229) Advocate responsibilities. The minimum duties of the advocate are outlined in Iowa Code section 229.19. The role of the advocate is to ensure that the rights of the individual are upheld.

305.3(1) The advocate will be readily accessible to communication from the individual and will initiate contact within five days of the individual's commitment. The advocate will inform the individual regarding the role of the advocate.

305.3(2) The advocate will meet the individual in person within 15 days of the individual's commitment. The advocate will present the county grievance procedure process, in writing, to the individual. The presentation will include the county grievance procedure, county contact information, and ombudsman contact information. The advocate will inform the individual about the mental health crisis services that are available.

305.3(3) The advocate will review each report submitted to the court and communicate with the individual's medical and treatment team. Advocates will abide by all federal, state, and local confidentiality laws.

305.3(4) The advocate will file in a form prescribed by the court as the advocate feels necessary or as required for each individual assigned to the advocate.

305.3(5) The advocate will maintain an organized, confidential, and secure file for each individual served. The file will contain but not be limited to:

- a. Copies of quarterly reports submitted to the court.
- b. Copies of correspondence sent to and received from the individual, family members, providers, and others.
- c. Releases of information.
- d. Case notes describing the date, time, and type of contact with the individuals or others and a brief narrative summary of the content or outcome of the contact.
- e. Documents filed with the court electronically will be considered as part of the individual's file.

305.3(6) The advocate will register as provided in Iowa R. Elec. P. 16.305(1) to participate in the court's electronic document management system and will submit all documents to be filed with the court electronically. The documents will be stored as electronic records that are retrievable and readable through the electronic document management system.

305.3(7) The advocate, as an employee of the county, will comply with all county policies and procedures, including but not limited to hiring, supervision, grievance procedures, and training.

305.3(8) All advocate records are the property of the county, which is responsible for the provision of confidential storage, transfer, and destruction of client files, including those maintained on electronic and digital devices, with access limited according to the county's policy on confidentiality as described in subrule 305.4(6).

305.3(9) The advocate may attend the hospitalization hearing of an individual represented by an attorney; however, payment for the advocate's attendance is at the discretion of the county of employment.

441—305.4(229) County responsibilities. As the employer of the advocate, the county will provide qualified staff to support and facilitate the provision of quality advocate services. The county will:

305.4(1) Assign a single supervisor, a single contract manager, or the county board of supervisors as the supervising entity to carry out responsibilities in this chapter.

305.4(2) Have a job description in the personnel file of the advocate that clearly defines the advocate's responsibilities and qualifications as defined in Iowa Code section 229.19 and this chapter.

305.4(3) Have a process to verify, prior to the advocate's hire, qualification of the advocate, including degrees and certifications obtained from a primary source.

305.4(4) Provide or arrange for training and education relevant to the position, including but not limited to overview of mental health diagnosis and treatment, the behavioral health service system, confidentiality, individual rights, professional conduct, the role of advocacy and service coordination within an interdisciplinary team, the Iowa Code and administrative rules, and court procedures.

305.4(5) Provide or arrange for approved training on child and dependent adult abuse reporter requirements.

305.4(6) Provide, to any employee with access to individuals' files, training on state and federal laws regarding nondisclosure and confidentiality of client-protected health information during and after employment and maintain in the personnel files a signed document indicating the employee's awareness of the county's policy on confidentiality.

305.4(7) Complete criminal background, sex offender registry, and child and dependent adult abuse registry checks before employment of the advocate. Any person who does not pass these checks is prohibited from being hired, or continuing to serve, as an advocate.

305.4(8) Provide advocate staff to cover the county's caseload at all times, according to but not limited to each county's unique number of individuals assigned to the advocate, travel required, types of settings where the individuals reside, services available, and extended staff absences.

441—305.5(229) Data collection requirements.

305.5(1) *Annual submission.* By December 1 of each year, each county will submit to the department data regarding each individual who received advocate services during the previous state fiscal year.

305.5(2) *Required data.* The data to be submitted are as follows:

- a. Basic information about the individual, including a unique identifier and county of residence.
- b. Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA) (published 2013, with all changes and updates approved by the APA through July 1, 2025, incorporated herein).
- c. Commitment information, including the date of the individual's initial commitment, type of commitment order, whether a juvenile or adult case, date of commitment and name of treatment facility to which the individual is committed, any subsequent changes in treatment facility, and date commitment is terminated.

441—305.6(229) Quality assurance system. The county will implement a quality assurance system that:

305.6(1) Annually measures and assesses advocates' activities and services.

305.6(2) Gathers feedback from stakeholders, including individuals using advocate services, family members, court staff, service provider staff, and regional staff regarding advocate services.

305.6(3) Implements an internal review of individual records.

305.6(4) Identifies areas in need of improvement.

305.6(5) Develops a plan to address the areas in need of improvement.

305.6(6) Implements the plan and documents the results.

These rules are intended to implement Iowa Code chapter 229.

ITEM 9. Adopt the following new 441—Chapter 310:

CHAPTER 310
DATA COLLECTION

441—310.1(225A) Authority. The director is the principal officer of the state to administer BH-ASO data reporting. On behalf of the department, each BH-ASO will collect and maintain data on all clients served.

310.1(1) Submission of data. Each BH-ASO will submit to the department the data regarding each individual the BH-ASO serves.

a. BH-ASOs will submit data according to the frequency, file layouts, format, and naming conventions prescribed by the department.

b. When a BH-ASO is notified by the department that the data is incomplete or is not compliant with the prescribed file layouts, format, or naming conventions, the BH-ASO must correct the issue within 30 days of the notification.

c. The state supplementary assistance program, mental health institutes, state resource center, Medicaid program, Medicaid managed care organizations, and targeted case management program will provide to the department team responsible for BH-ASO evaluation and oversight the equivalent data in a compatible format on the same schedule as the required submission from the BH-ASOs as requested.

310.1(2) Data required. The data to be submitted are as follows:

a. Individual client-level information, including a unique identifier, name, address, demographic information, service delivery information, referral information, and any other information as prescribed by the department.

b. The state ID number when applicable.

c. Demographic information, including but not limited to date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, and diagnosis code in the International Classification of Diseases (ICD) as amended to July 1, 2025.

d. Service information, including but not limited to the decision on services, date of decision, termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

This rule is intended to implement Iowa Code sections 225A.3 and 225A.6.

ARC 9005C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to mental health institutes and state resource centers and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 28, "Policies for Mental Health Institutes and Resource Centers," and adopt a new Chapter 28, "Policies for Mental Health Institutes and Resource Center"; rescind Chapter 29, "Mental Health Institutes," and adopt a new Chapter 29 with the same title; and rescind Chapter 30, "State Resource Centers," and adopt a new Chapter 30, "State Resource Center," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 217, 218 and 222; 2024 Iowa Acts, House File 2673; and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2673, and Executive Order 10.

Purpose and Summary

This rulemaking proposes to rescind Chapters 28, 29, and 30 and adopt revised versions to make conforming changes in response to 2024 Iowa Acts, House File 2673, which created the State's new behavioral health services system. Concurrently, a Red Tape Review of the chapters was undertaken pursuant to Executive Order 10. Citations in the proposed rules to Iowa Code section 225A.1 refer to that section as enacted by 2024 Iowa Acts, House File 2673, effective July 1, 2025.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on February 5, 2025. A public hearing was held on the following date(s):

- February 25, 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.

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 April 8, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
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:

April 8, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 269 346 023 061 Passcode: rB6xd97g
April 8, 2025 3 to 4 p.m.	Microsoft Teams Meeting ID: 287 225 010 706 Passcode: qB6f8ic6

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 441—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28
POLICIES FOR MENTAL HEALTH
INSTITUTES AND RESOURCE CENTER

441—28.1(218) Definitions. The definitions in this rule apply to 441—Chapters 28, 29, and 30.

“Admission” means the acceptance of an individual for receipt of services at a state mental health institute or the Woodward state resource center on either a voluntary or involuntary basis.

“Adult” means an individual who is 18 years of age or older.

“Facility” means a mental health institute or the Woodward state resource center referenced in Iowa Code section 218.1.

“Grievance” means a written or oral complaint by or on behalf of an individual involving:

1. A rights violation or unfairness to the individual, or
2. Any aspect of the individual's life with which the individual does not agree.

“Guardian” means the person other than a parent of a minor who has been appointed by the court to have custody of the person of the individual as provided under Iowa Code section 232.2(24) or 633.3(20).

“Individual” means any person seeking or receiving services from a state mental health institute or the Woodward state resource center.

“Informed consent” means an agreement by an individual or by the individual's parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.
2. A description of the discomforts and risks.
3. A description of the benefits to be expected.
4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.
5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“Legal representative” means a person, including an attorney, who is authorized by law to act on behalf of an individual.

“Minor” means an individual under the age of 18.

“Non-Medicaid payment-eligible” means that an individual is not eligible for Medicaid funding for the services provided by a mental health institute or the Woodward resource center.

“Parent” means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

“Rights” means the human, civil, and constitutional liberties an individual possesses through federal and state constitutions and laws.

“Superintendent” means the superintendent of either of the two mental health institutes or the Woodward state resource center.

This rule is intended to implement Iowa Code section 218.4.

441—28.2(222,230) Payor of last resort. The department will review a non-Medicaid payment-eligible individual's financial and third-party coverage information to ensure the state is the payor of last resort. Third-party coverage does not include payment by an administrative services organization as defined in Iowa Code section 225A.1.

This rule is intended to implement Iowa Code sections 222.35 and 230.23.

441—28.3(229) Grievances. Any individual who believes the individual's rights have been violated by a mental health institute or resource center or who has any complaint concerning the individual's treatment at a mental health institute or resource center may file a grievance. A grievance will be filed using the individual grievance form. The individual's parent, family, guardian, or legal representative may file a grievance on behalf of the individual.

This rule is intended to implement Iowa Code section 229.23.

441—28.4(217,218) Photographing and recording of individuals and use of cameras.

28.4(1) Use of still or video cameras or voice recorders by anyone other than an authorized employee, individual, parent, guardian, or legal representative to photograph or record an individual will be allowed only with the prior authorization of the superintendent or the superintendent's designee. Permission to photograph and record will be granted for one specific use, and the authorization will not extend to any other use.

28.4(2) Photographs, videos, and recordings of an adult individual will be taken for publication only with a signed informed consent from the individual or the individual's guardian or legal representative.

28.4(3) Photographs, videos, and recordings of a minor individual will be taken for publication only with a signed informed consent from the parent, guardian, or legal representative.

28.4(4) Every effort will be made to preserve the inherent dignity of the individual and to preclude exploitation or embarrassment of the individual or the family of the individual.

28.4(5) Photographs, videos, and recordings of individuals are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of individuals with mental illness or an intellectual disability.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.5(217,218) Interviews and statements.

28.5(1) Releases to the news media will be the responsibility of the superintendent. Authority for dissemination and release of information may be designated to other employees at the discretion of the superintendent.

28.5(2) Interviews of individuals by the news media or other outside persons or groups will be permitted only with the consent of the individual or the individual's parent, guardian, or legal representative.

a. When a request without known prior consent is received, the superintendent or designee will not acknowledge the presence or nonpresence of an individual at the facility.

b. If the individual is in the facility, the superintendent or designee will make the individual or the individual's parent, guardian, or legal representative aware of the request. Notice to the individual or the individual's parent, guardian, or legal representative will be documented in the individual's record. The individual or the individual's parent, guardian, or legal representative will be free to decide whether an interview is granted.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.6(218) Use of grounds, facilities, or equipment.

28.6(1) The superintendent or designee may grant permission for temporary use of assembly halls, auditoriums, meeting rooms, or facility grounds to an organization or group of citizens when the space or grounds are available and are not needed for regularly scheduled departmental services.

28.6(2) Members of outside organizations permitted to use a facility's space or grounds will observe the same rules as visitors to the facility.

This rule is intended to implement Iowa Code chapter 218.

441—28.7(218) Tours of facility. Groups or persons will be permitted to tour the facility only with approval of the superintendent or designee.

This rule is intended to implement Iowa Code section 218.4.

441—28.8(218) Donations. Donations of money, clothing, books, games, recreational equipment or other gifts will be made directly to the superintendent or designee. The superintendent or designee will evaluate the donation in terms of the nature of the contribution to the facility's program. The superintendent or designee will be responsible for accepting the donation and reporting the gift to the department. All monetary gifts will be acknowledged in writing to the donor.

This rule is intended to implement Iowa Code chapter 218.

441—28.9(217) Release of confidential information. Information defined by statute as confidential concerning individuals who currently receive or formerly received services from the mental health institutes or resource center shall not be released to a person, agency or organization that is not authorized by law to have access to the information unless the individual, parent, guardian, or legal representative authorizes the release. Authorization will be given by using an Authorization to Obtain or Release Health Care Information form provided by the department.

This rule is intended to implement Iowa Code section 217.30.

ITEM 2. Rescind 441—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29 MENTAL HEALTH INSTITUTES

441—29.1(218,229) Voluntary admissions.

29.1(1) Application form. Any individual who has symptoms of mental illness may apply for voluntary inpatient treatment or voluntary outpatient or day treatment using an application for voluntary admission to a mental health institute from the department's website.

29.1(2) Minors. A parent, guardian, or legal representative of a minor individual may make application for the individual's voluntary admission directly to the mental health institute using an application for voluntary admission to a mental health institute form. When a minor objects to the admission and the chief medical officer of the mental health institute determines that the admission is appropriate, the parent, guardian, or custodian must petition the juvenile court for approval of admission before the minor will be admitted.

441—29.2(229) Authorization for treatment. No individual receiving services, either on a voluntary or involuntary basis, will be provided treatment other than what is necessary to preserve life or protect others from physical injury unless:

1. The individual has given consent by signing a mental health institute agreement and consent to treatment form;
2. A court has ordered treatment; or
3. The individual's parent, guardian, or legal representative has given consent by signing a mental health institute agreement and consent to treatment form.

441—29.3(217,228,229) Rights of individuals. An individual receiving care from a state mental health institute will have the following rights.

29.3(1) Information. An individual receiving care from a state mental health institute will have the right to:

- a. Receive an explanation and written copy of the rules of the facility.
- b. Be provided information on the provisions of law pertaining to admission to and discharge from the facility.

c. Receive an explanation of the individual's medical condition and be informed of treatment plans and the attendant risks of treatment.

d. Be provided with complete and current information concerning the individual's diagnosis, treatment, and progress in terms and language understandable to the individual.

e. Have the information required in this subrule made available to the individual's parent, guardian, or legal representative when it is not feasible to give the information directly to the individual.

29.3(2) *Care and treatment.* An individual receiving care from a state mental health institute will have the right to:

a. Be evaluated promptly following admission and receive emergency services appropriate to the individual's needs.

b. Have a current individualized written plan of treatment.

c. Receive appropriate treatment, services, and rehabilitation for the individual's mental illness, including appropriate and sufficient medical and dental care.

d. Have the opportunity for educational, vocational, rehabilitative, and recreational programs appropriate to the individual's treatment needs.

e. Have the confidentiality of the individual's personal mental health institute records maintained and have access to those records within a reasonable period.

f. Have an individualized posthospitalization plan.

29.3(3) *Living conditions.* An individual receiving care from a state mental health institute will have the right to:

a. Live in the least restrictive conditions necessary to achieve the purposes of treatment.

b. Receive care in a manner that respects and maintains the individual's dignity and individuality.

c. Have opportunities for personal privacy, including during the care of personal needs.

d. Keep and use appropriate personal possessions, including wearing the individual's own clothing.

e. Be free from unnecessary drugs, restraints, and seclusion except when necessary to protect the immediate health or safety of the individual or others.

f. Be free from physical, psychological, sexual, or verbal abuse; neglect; and exploitation.

29.3(4) *Communication.* An individual receiving care from a state mental health institute will have the right to:

a. Have a family contact or representative of the individual's choice or the individual's community physician notified promptly of the individual's admission.

b. Communicate with people and access services at the facility and in the community, including organizing and participating in resident groups while at the facility.

c. Receive visits of the individual's choice from parents, guardians, legal representatives, or family without prior notice given to the facility unless the visits have been determined inappropriate by the individual's treatment team.

d. Communicate and meet privately with persons of the individual's choice without prior notice given to the facility unless the communication is determined inappropriate by the individual's treatment team.

e. Send and receive unopened mail.

f. Make and receive private telephone calls unless the calls have been determined inappropriate by the individual's treatment team.

g. Access current informational and recreational media such as newspapers, television, or periodicals.

29.3(5) *Self-determination.* An individual receiving care from a state mental health institute will have the right to:

a. Have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual.

b. Participate in the development and implementation of the individual's treatment plan.

c. Give informed consent, including the right to withdraw consent at any given time.

d. Refuse treatment (such as medication, surgery or electroconvulsive therapy) offered without the individual's expressed informed consent and be provided with an explanation of the consequences of those refusals unless treatment is necessary to protect the health or safety of the individual or is ordered by a court.

e. Immediate discharge (if admitted voluntarily) by submitting a written notice to the superintendent or chief medical officer unless a written request for involuntary hospitalization is submitted to a court.

f. Refuse to perform services for the facility and not be coerced to perform services.

g. Manage the individual's own financial affairs unless doing so is limited under law or determined not appropriate by the individual's treatment team.

h. Choose activities, schedules, and care consistent with the individual's interests, needs, and treatment plans.

i. Engage in social, religious, and community activities of the individual's choice.

j. Formulate advanced directives and be provided care in compliance with these directives.

29.3(6) *Advocacy.* An individual receiving care from a state mental health institute will have the right to:

a. Exercise the individual's rights as a citizen or resident of the United States.

b. File a grievance pursuant to rule 441—28.3(229) without any intimidation or reprisal resulting from the grievance.

c. Request a judicial review of the hospitalization, file for a writ of habeas corpus, have an attorney of the individual's choice, and communicate and meet privately with the individual's attorney without prior notice given to the facility.

441—29.4(218) Visiting.

29.4(1) Visiting hours will be posted in each facility. The physician may designate exceptions for special hours on an individual or ward basis. Therapy for the individual will take precedence over visiting. Visiting will not interfere with the individual's treatment program or meals.

29.4(2) A visit will be terminated when behavior on the part of the individual or visitor is disruptive to the individual's treatment plan.

29.4(3) Visiting on grounds will be permitted when the individual has a grounds pass.

29.4(4) Visitors wishing to take an individual off grounds will receive prior approval from the attending physician.

29.4(5) All visitors will obtain a visitor's pass at the switchboard or another area as designated by the superintendent and posted. The pass will be given to a ward employee before the visitor is allowed on the ward.

29.4(6) Persons under 12 years of age shall not visit on the ward.

These rules are intended to implement Iowa Code chapters 217, 218, 228, 229, and 230.

ITEM 3. Rescind 441—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30 STATE RESOURCE CENTER

441—30.1(218,222) Admission. Express written consent of the individual or the individual's parent, guardian, or legal representative shall be secured before admission.

30.1(1) *Application.*

a. Applications for the care, treatment, or evaluation of an individual by a resource center shall be made to the department.

b. The application shall be made using the form for application for admission to a state resource center and shall be accompanied by:

- (1) A completed resource center agreement and consent for services form, and
- (2) Other information specifically requested in writing by the resource center.

30.1(2) *Application for readmission.* When the application is for a readmission, the resource center may waive the resubmittal of any information already in the files other than the form for application for admission to a state resource center.

30.1(3) *Receipt of application.* Upon receipt of an application, the resource center may:

- a. Provide an individual with outpatient evaluation treatment, training, or habilitation services; or
- b. Admit an individual on a temporary basis for either:

(1) A preadmission diagnostic evaluation to determine whether the individual would be appropriate to admit to the regular program, or

(2) A diagnostic evaluation to assist in planning for community-based services or respite care.

30.1(4) *Eligibility for admission.* Eligibility for admission will be determined by:

- a. A preadmission diagnostic evaluation,
- b. An established diagnosis of intellectual disability,
- c. The availability of an appropriate program, and
- d. The availability of space at the facility.

This rule is intended to implement Iowa Code sections 222.13 and 222.13A.

441—30.2(222) *Liability for support.* The liability of any person, other than the individual, who is legally bound for the support of any individual under 18 years of age will be determined in the same manner as parent liability in rule 441—156.2(234), except that the maximum liability will not exceed the standards for personal allowances established by the department under the family investment program.

This rule is intended to implement Iowa Code section 222.78.

441—30.3(217,218) *Rights of individuals.*

30.3(1) *Information.* An individual receiving care from a state resource center has the right to:

- a. Receive an explanation and written copy of the rules of the facility.
- b. Receive an explanation of the individual's medical condition, developmental status, and behavioral status, and be informed of treatment plans and the attendant risks of treatment.

30.3(2) *Care and treatment.* An individual receiving care from a state resource center has the right to:

- a. Receive appropriate treatment, services, and habilitation for the individual's disabilities, including appropriate and sufficient medical and dental care.
- b. Have the confidentiality of the individual's personal resource center records maintained and have access to those records within a reasonable period.
- c. Work, when available and desired and as appropriate to the individual's plan of treatment, and be compensated for that work in accordance with federal and state laws.

30.3(3) *Living conditions.* An individual receiving care from a state resource center has the right to:

- a. Receive care in a manner that respects and maintains the individual's dignity and individuality.
- b. Have opportunities for personal privacy, including during the care of personal needs.
- c. Keep and use appropriate personal possessions, including wearing the individual's own clothing.

d. Share a room with a spouse when both live in the same facility.

e. Be free from unnecessary drugs and restraints.

f. Be free from physical, psychological, sexual, or verbal abuse; neglect; and exploitation.

30.3(4) *Communication.* An individual receiving care from a state resource center has the right to:

a. Communicate with people and access services at the facility and in the community, including organizing and participating in resident groups while at the facility.

b. Receive visits of the individual's choice from parents, guardians, legal representatives, or family without prior notice given to the facility unless the visits have been determined inappropriate by the individual's treatment team.

c. Communicate and meet privately with persons of the individual's choice without prior notice given to the facility unless the communication is determined inappropriate by the individual's treatment team.

- d.* Send and receive unopened mail.
- e.* Make and receive private telephone calls unless the calls have been determined inappropriate by the individual's treatment team.

30.3(5) *Self-determination.* An individual receiving care from a state resource center has the right to:

- a.* Have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual.
- b.* Give informed consent, including the right to withdraw consent at any given time.
- c.* Refuse treatment (such as medication or behavioral interventions) offered without the individual's expressed informed consent and be provided with an explanation of the consequences of those refusals unless treatment is necessary to protect the health or safety of the individual or is ordered by a court.
- d.* Refuse to perform services for the facility and not be coerced to perform services.
- e.* Manage the individual's own financial affairs unless doing so is limited under law or determined not appropriate by the individual's treatment team.
- f.* Choose activities, schedules, and care consistent with the individual's interests, needs and care plans.
- g.* Engage in social, religious, and community activities of the individual's choice.

30.3(6) *Advocacy.* An individual receiving care from a state resource center has the right to:

- a.* Exercise the individual's rights as a citizen or resident of the United States.
- b.* File a grievance pursuant to rule 441—28.3(229) without any intimidation or reprisal resulting from the grievance.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—30.4(218) Visiting.

30.4(1) Individuals are encouraged to and will be able to receive visits from persons of the individual's choice and at times desired by the individual. At the individual's choice, the individual's parents, guardian, or legal representative or other members of the individual's family may visit without prior notice given to the facility.

30.4(2) Visits determined to be inappropriate or disruptive to the individual's treatment plan or the health and safety of other individuals may be denied or terminated.

30.4(3) An individual or other person denied visitation may file a grievance through the facility's grievance process.

This rule is intended to implement Iowa Code chapter 218.

ARC 9006C

HUMAN SERVICES DEPARTMENT[441]

Amended Notice of Intended Action

Proposing rulemaking related to specialized managed care programs and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 88, "Specialized Managed Care 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 section 249A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter provides for specialized programs of managed care within the Iowa medical assistance program but outside of managed care pursuant to 441—Chapter 73. Managed care providers under these programs are not required to comply with 441—Chapter 73.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024, as **ARC 8572C**. Since then, the Department learned that a significant portion of the proposed chapter was obsolete. This Amended Notice of Intended Action removes that language and includes other changes made during the Red Tape Review process pursuant to Executive Order 10.

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.

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 April 8, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
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:

April 8, 2025 2:30 to 3 p.m.	Microsoft Teams Meeting ID: 285 090 102 852 Passcode: xo9b9xv6
April 8, 2025 4 to 4:30 p.m.	Microsoft Teams Meeting ID: 295 681 622 690 Passcode: wx7Nh7xv

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 441—Chapter 88 and adopt the following new chapter in lieu thereof:

CHAPTER 88
SPECIALIZED MANAGED CARE PROGRAMS

441—88.1(249A) Definitions.

“Alternate PACE service site” means a location outside a primary or alternate PACE center in which one or more PACE services are offered to PACE enrollees.

“Capitation payment” means the monthly payment to PACE on behalf of each Medicaid participant for the provision of covered medical and supportive services. Payment is made regardless of whether the participant receives services during the month.

“CMS” means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

“Enrollee” means a person who is enrolled in a PACE program.

“Federal PACE regulations” means the standards published in 42 CFR Part 460, “Programs of All-Inclusive Care for the Elderly,” as amended to August 1, 2024. These rules will be interpreted so as to comply with the federal PACE regulations.

“Interdisciplinary team” or *“IDT”* means the team designated by the PACE organization to assess the needs of and develop a comprehensive plan of care for each enrollee.

“Medicare beneficiary” means a person who is entitled to Medicare Part A benefits, is enrolled under Medicare Part B, or both.

“PACE enrollment agreement” means the contract between the PACE organization and the enrollee that includes, at a minimum, all information identified in 42 CFR 460.154 as amended to August 1, 2024.

“Service area” means the specific counties in which a PACE provider may provide services as identified in the PACE program agreement.

The following definitions have the same meaning as set forth in 42 CFR 460.6 as amended to August 1, 2024:

“Contract year”

“Medicaid enrollee”

“Medicare enrollee”

“PACE”

“PACE center”

“PACE organization”

“PACE program”

“PACE program agreement”

“Services”

“Trial period”

441—88.2(249A) Process for new and expanding PACE organization service areas. This rule establishes the state's process for a potential PACE organization seeking department support and an assurance letter to provide to CMS to establish a new or expanding PACE organization.

88.2(1) *Submission of letter of intent.* A person authorized to act on behalf of an entity seeking approval as a new PACE organization or an existing PACE organization seeking to expand its service area shall submit a request to the department in writing or via email to pace@hhs.iowa.gov. The request shall include the following information:

- a. Organizational background, history, and experience with PACE and developing long-term services and supports.
- b. Identity and credentials of key personnel, including members of any governing board and the proposed management team for the new or expanded PACE organization.
- c. Where the new or expanded PACE center will be located.
- d. The proposed opening date of the new or expanded PACE center.

88.2(2) *Evaluation of letter of intent and submission requirements.* The department will review the new or expanding PACE organization's letter of intent. The department will provide written notification to the PACE organization regarding whether the requested counties will be reserved and for how long.

- a. If the department agrees to support the PACE organization's plans, the department will issue a detailed request for information with a deadline and a list of submission requirements.
- b. The department may release the reserved counties if the potential PACE organization fails to follow the department's instructions or misses the submission deadline.
- c. The department reserves the right of final approval and to reject a letter of intent submission.
- d. New or expanding PACE organizations must follow all other steps to obtain program approval as outlined in the federal PACE regulations.
- e. The department may elect to support more than one PACE organization in any county based on the completed feasibility study.

88.2(3) *State readiness review.* The department may conduct an on-site visit or audit and may request additional information from PACE in connection with an application for approval or expansion. A PACE organization is required to:

- a. Hold applicable licenses under state and federal law.
- b. Operate and provide services in compliance with all applicable federal, state, and local laws, regulations and codes and in accordance with applicable professional standards.
- c. Maintain documentation to demonstrate compliance with state and local fire safety codes.
- d. Once all state requirements are met, the department will provide to the prospective PACE organization an assurance letter to submit to CMS.

441—88.3(249A) *Three-way agreement with Medicare and Medicaid.* An entity that has been approved by the department and CMS to be a PACE organization must enter into an agreement with CMS and the department that meets the requirements in 42 CFR Part 460, Subpart C, as amended to August 1, 2024.

441—88.4(249A) *Center administration.* The PACE organization shall operate the PACE center effectively and efficiently to maintain the highest physical, mental, and psychosocial well-being of each participant.

88.4(1) *Licensure.* Covered services shall be provided by personnel who are licensed, endorsed, registered, recognized, or qualified and who are acting within the scope of the applicable license, endorsement, registration, recognition, or qualification pursuant to 441—Chapter 77.

88.4(2) *Compliance with federal, state, and local laws and professional standards.* The PACE center must operate and provide services in accordance with all applicable federal, state, and local laws, regulations, and codes, as well as accepted professional standards and principles applicable to the professional providing services.

441—88.5(249A) *Safety.* The PACE organization must establish, maintain, and follow an infection control plan designed to provide a safe, sanitary, and conformable environment to help prevent the transmission of disease and infection pursuant to 42 CFR 460.74 as amended to August 1, 2024.

441—88.6(249A) Physical environment. The PACE center shall be designed, constructed, equipped, and maintained to protect the health and safety of participants, personnel, and the public pursuant to 42 CFR 460.72 as amended to August 1, 2024.

441—88.7(249A) Program services.

88.7(1) Required services. The PACE organization shall provide a benefit package for all participants, regardless of the source of payment, which must include the following pursuant to 42 CFR Part 460, Subpart F, as amended to August 1, 2024:

- a. All Medicare-covered items and services.
- b. All Medicaid-covered items and services as specified in 441—Chapters 78, 81, 82, 85, and 90. Medicaid benefit limitations and conditions relating to amount, duration, scope of services, deductibles, copayments, coinsurance, or other cost sharing do not apply to PACE services.
- c. Other services determined necessary by the participant's IDT to improve or maintain the participant's overall health status.

88.7(2) Excluded services. The following services are excluded from coverage under PACE pursuant to 42 CFR 460.96 as amended to August 1, 2024:

- a. Cosmetic surgery, which does not include surgery that is required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following a mastectomy.
- b. Experimental medical, surgical, or other health procedures not deemed medically necessary by the IDT.
- c. Services furnished outside the United States, except in accordance with 42 CFR 424.122 and 42 CFR 424.124 as amended to August 1, 2024, or as otherwise permitted under the Iowa Medicaid program.

441—88.8(249A) Patient education.

88.8(1) Use of services. The PACE organization shall have a process and procedure to orient participants on how to access and request services and supports.

88.8(2) Participant rights. The PACE organization shall have a written participant bill of rights and inform participants upon enrollment of the participant's rights and responsibilities in accordance with 42 CFR Part 460, Subpart G, as amended to April 11, 2022.

441—88.9(249A) Grievances and appeals. The PACE organization must have written policies and procedures for identifying and processing service determination requests, grievances, and appeals in accordance with 42 CFR 460.120 through 460.124 as amended to August 1, 2024.

88.9(1) Written log. The PACE organization must maintain a written log of all grievances and appeals, including all informal or verbal complaints. The log must include progress notes and method of resolution.

88.9(2) Submission to the department. Upon request by the department, the PACE organization must provide documentation related to service determination requests, grievances, and appeals, including the log described in subrule 88.9(1), to the department at its mailing address or via email at pace@hhs.iowa.gov.

441—88.10(249A) Participant enrollment and disenrollment. The PACE organization must comply with the federal enrollment requirements stated in 42 CFR 460.152 through 460.156 as amended to August 1, 2024.

88.10(1) Eligibility for Medicaid members. To enroll in a PACE program as an Iowa Medicaid member, a person must meet the eligibility requirements specified in this subrule.

- a. *Basic eligibility requirements.*
 - (1) The person must be 55 years of age or older.
 - (2) The person must reside in the service area of the PACE center.
 - (3) The person must be aged, blind, or disabled pursuant to rule 441—75.25(249A).

(4) The person must meet income and resources requirements described in rule 441—75.5(249A) for persons in a medical institution.

(5) The department must determine that the person meets a nursing facility level of care.

(6) The person must meet any additional program-specific eligibility conditions imposed under the PACE program agreement. These additional conditions shall not modify the requirements stated in this subrule.

b. Other eligibility requirements.

(1) At the time of enrollment, the person must be able to live in a community setting without jeopardizing the person's health or safety pursuant to the criteria specified in the PACE program agreement.

(2) To continue to be eligible for PACE as an Iowa Medicaid member, a person must meet the annual recertification requirements specified in subrule 88.10(6).

88.10(2) *Effective date of enrollment.* A person's enrollment in the program is effective on the first day of the calendar month following the date PACE receives the signed enrollment agreement pursuant to 42 CFR 460.158 as amended to August 1, 2024.

88.10(3) *Duration of enrollment.* Enrollment continues until the participant's death unless either of the following occurs:

a. The participant voluntarily disenrolls. A PACE participant may voluntarily disenroll from the program without cause at any time. A participant's voluntary disenrollment is effective on the first day of the month following the date PACE receives the participant's notice of voluntary disenrollment.

b. The participant is involuntarily disenrolled. An involuntary disenrollment shall not become effective until the department has determined that PACE has adequately documented acceptable grounds for disenrollment. If a participant is approved by the department for involuntary disenrollment, the effective date of disenrollment is the first day of the next month that begins 30 days after the day PACE sends the notice of disenrollment. For example, notification on June 5 would be effective August 1. Acceptable grounds for an involuntary disenrollment are outlined in 42 CFR 460.164 as amended to August 1, 2024.

88.10(4) *Disenrollment.*

a. When disenrolling a participant, the PACE organization must:

- (1) Use the most expedient process allowed under the PACE program agreement;
- (2) Coordinate the PACE disenrollment date to seamlessly reenroll the person in Medicare Part A, B, and D and Medicaid for a participant who is dually eligible for both Medicare and Medicaid; and
- (3) Give reasonable advance notice to the participant.

b. Until the date when enrollment is terminated, the following requirements must be met:

- (1) The PACE organization must continue to furnish all needed services.
- (2) The participant must continue to use PACE services.

88.10(5) *Documentation of disenrollment.* The PACE organization must:

a. Have a procedure in place to document the reasons for all voluntary and involuntary disenrollments.

b. Make documentation available for review by CMS and the department.

c. Use the information on voluntary disenrollments in PACE's internal quality improvement program.

d. Provide the department with information regarding all participant disenrollments, including voluntary, involuntary, and deaths. PACE must complete a form prescribed by the department and submit it to the department in the manner directed by the department within ten days of the date of disenrollment or death.

88.10(6) *Medicaid eligibility review.*

a. When requested by the department, the participant shall complete a form prescribed by the department in accordance with rule 441—76.14(249A).

b. At least annually, the department will:

- (1) Evaluate whether each participant continues to meet the nursing facility level of care; and
- (2) Review of all financial and nonfinancial eligibility pursuant to 441—Chapter 76.

c. Deemed continued eligibility. If the department determines that a participant no longer meets the nursing facility level of care, the department, in consultation with the PACE organization, will determine whether, in the absence of continued PACE coverage, the participant reasonably would be expected to meet the nursing facility level-of-care requirement within the next six months. This determination will be based on a review of the participant's medical record and plan of care, applying criteria specified in the PACE program agreement. If the participant reasonably would be expected to meet the level-of-care requirement within six months, the participant's eligibility for the PACE program may continue until the next annual reevaluation.

88.10(7) Reinstatement in other Medicare and Medicaid programs. After a disenrollment, the PACE organization shall work with CMS and the department to facilitate the former participant's reinstatement in other Medicare and Medicaid programs by:

a. Assisting in transitions to other Medicare plans and Medicaid programs for which the participant may be eligible; and

b. Making appropriate referrals and ensuring that medical records are made available to new providers within 30 days from the participant's last day of enrollment with PACE.

88.10(8) Reinstatement in PACE. A previously disenrolled participant may be reinstated in a PACE program. If the reason for disenrollment is failure to pay the premium and the participant pays the premium before the effective date of disenrollment, the participant is reinstated in the PACE program with no break in coverage pursuant to 42 CFR 460.170 as amended to August 1, 2024.

441—88.11(249A) Records and reports.

88.11(1) Records. A PACE organization shall maintain clinical and fiscal records in accordance with federal and state requirements, including but not limited to rule 441—79.3(249A) and 42 CFR 460.200 as amended to August 1, 2024.

88.11(2) Content of individual treatment record. A PACE organization shall ensure that participating providers and subcontractors maintain adequate records and documentation that include a complete medical or service record for each enrolled participant pursuant to rule 441—79.3(249A).

88.11(3) Confidentiality of health care, mental health care, and substance abuse information. The PACE organization shall protect and maintain the confidentiality of health care, mental health care, and substance abuse information by implementing policies for staff and through contract terms with participating providers. The policies must comply with applicable state and federal laws.

441—88.12(249A) Health Insurance Portability and Accountability Act of 1996 (HIPAA). The PACE organization and its subcontractor shall protect each participant's privacy in accordance with the confidentiality requirements stated in 45 CFR Parts 160 and 164 as amended to August 1, 2024. The PACE organization must report any HIPAA breach by the organization or its subcontractors to the department, using a form prescribed by the department.

441—88.13(249A) Funding.

88.13(1) Medicaid capitation payments to the PACE organization. Under a three-way agreement, the department will make a prospective capitation payment to the PACE organization.

a. The amount of the capitation payment:

(1) Will be an actuarially sound rate determined in accordance with federal funding requirements that is less than the amount that would otherwise have been paid (AWOP) under the Medicaid program if the participant had not been enrolled in the PACE program.

(2) Will be a fixed amount regardless of changes in the enrollee's health status.

(3) May be renegotiated on an annual basis.

b. The PACE organization must accept the capitation payment amount as payment in full for Medicaid members. The PACE organization shall not collect or receive any other form of payment from the department or from, or on behalf of, the Medicaid member except for any amounts due from the participant pursuant to subrule 88.13(2).

c. To facilitate rate development, the PACE organization must supply financial information to the department in the format requested by the due date.

88.13(2) *Client participation for payment of medical institution care.* A PACE participant shall contribute toward the cost of the participant's care according to the amount determined by Medicaid eligibility pursuant to rule 441—75.16(249A).

441—88.14(249A) Federal and state monitoring; sanctions.

88.14(1) The PACE program shall comply with federal and state monitoring requirements described in 42 CFR Part 460, Subpart K, as amended to August 1, 2024.

88.14(2) Within 30 days of issuance of review results, the PACE organization shall develop and implement a corrective action plan to address any deficiencies identified through the review.

88.14(3) The department will monitor the effectiveness of the corrective actions implemented by the PACE organization.

88.14(4) The PACE program is subject to sanctions or termination pursuant to 42 CFR Part 460, Subpart D, as amended to August 1, 2024.

These rules are intended to implement Iowa Code chapter 249A.

ARC 9018C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rulemaking related to disability services
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to adopt new Chapter 221, "Disability Services Definitions," Chapter 222, "Disability Services Advisory Councils," Chapter 223, "Disability Services," Chapter 224, "Aging and Disability Resource Centers," and Chapter 229, "Data Collection," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 231 and 2024 Iowa Acts, House File 2673.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 231 and 2024 Iowa Acts, House File 2673.

Purpose and Summary

This proposed rulemaking implements, in part, 2024 Iowa Acts, House File 2673, which realigned disability service provisions with aging services delivery. These new chapters provide for disability services definitions, advisory councils, eligibility, Aging and Disability Resource Centers, and data collection requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on February 5, 2025. A public hearing was held on the following date(s):

- February 25, 2025

This Notice of Intended Action differs from the published Regulatory Analysis. The Department discovered after publication that a drafting or publication error led to the omission of proposed Chapter 223.

The analysis of persons affected by the proposed rulemaking, impact of the proposed rulemaking, and cost to the State in the Regulatory Analysis were predicated upon the inclusion of proposed Chapter 223 and therefore substantially accurate. Proposed Chapter 223 is included herein.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 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 April 8, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliance@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 8, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 246 390 422 665 Passcode: C4Y3tQ7s
April 8, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 226 946 205 399 Passcode: f4dq3nM7

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following new Title XVII to precede **441—Chapter 221**:

TITLE XVII

AGING AND DISABILITY SERVICES

ITEM 2. Adopt the following new 441—Chapter 221:

CHAPTER 221 DISABILITY SERVICES DEFINITIONS

441—221.1(225A) Definitions. For the purpose of this chapter and 441—Chapters 222 through 224 and 229, the following definitions apply:

“Adult” means a person or persons 18 years of age and over.

“Caregiver” means an adult family member or other individual who has a significant relationship with, and who provides a broad range of assistance to, an individual with a chronic or other health condition, disability, or functional limitation. *“Caregiver”* also means a family member, friend, or neighbor who provides unpaid assistance to a person with a chronic illness or disabling condition.

“Chairperson” means the chairperson of the disability services advisory council who has been appointed by the DAP.

“Child” or *“children”* means a person or persons under 18 years of age.

“Disability” means the same as defined in Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. §12012 as amended to July 1, 2025).

“Disability access point” or *“DAP”* means a local organization designated by the department to serve as the primary access point for people with disabilities and their caregivers. DAPs serve as aging and disability resource center (ADRC) member organizations as defined in rule 441—224.1(231).

“Disability services advisory council” or *“DSA council”* means a council established by each DAP to identify opportunities, address challenges, and advise the DAP.

“Long-term services and supports” or *“LTSS”* means activities that support maintaining people with disabilities at the lowest level of care possible, including facility diversion or transition to community as determined through the DAP processes for eligibility and service determination. LTSS will be outlined in the individual’s service plan between the individual, care team, and DAP.

“Service coordination” means an active, transitional, and ongoing process that involves assisting an eligible individual in gaining access to and coordinating the provision of services, using person-centered practices in all contacts with individuals and their caregivers, and coordinating the services identified in the service plan.

“Short-term services and supports” or *“STSS”* means time-limited activities focused on supporting people with disabilities to live in the home and community of their choice in an integrated manner and offering support to their families and caregivers as needed toward this purpose. STSS will be outlined in the individual’s service plan between the individual, care team, and DAP.

This rule is intended to implement Iowa Code section 231.23.

ITEM 3. Adopt the following new 441—Chapter 222:

CHAPTER 222 DISABILITY SERVICES ADVISORY COUNCILS

441—222.1(231) Appointment.

222.1(1) The members of a council will be recruited by the DAP.

222.1(2) The appointments will be for three-year staggered terms, which will expire on June 30.

222.1(3) Vacancies will be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

222.1(4) Absences.

a. Three unexcused absences in a 12-month period constitutes grounds for the DAP to request nomination of an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson of a council is charged with providing notification of absences to the DAP.

441—222.2(231) Officers.

222.2(1) Officers of a council will consist of a chairperson and a vice chairperson. The chairperson will be appointed by the DAP. The vice chairperson will be elected at the first meeting of each fiscal year.

- a. The vice chairperson may serve no more than three consecutive terms.
- b. Vacancies in the office of chairperson will be filled by elevation of the vice chairperson for 60 days until a new appointment can be made by the DAP.
- c. Vacancies in the office of vice chairperson will be filled by election at the next meeting after the vacancy occurs.
- d. A vacancy must be filled by an individual meeting the same qualifications as the departing council member in accordance with Iowa Code chapter 231.

222.2(2) Duties of officers.

- a. The chairperson will:
 - (1) Preside at all meetings of the council;
 - (2) Appoint subcommittees as deemed necessary; and
 - (3) Designate the chairperson of each subcommittee.
- b. The vice chairperson will:
 - (1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson will have all the powers of and be subject to all restrictions upon the chairperson.
 - (2) Perform other duties as may be assigned by the chairperson.

441—222.3(231) Meetings.

222.3(1) A council will establish a meeting schedule on an annual basis to conduct its business. There will be a minimum of four meetings per year.

222.3(2) A majority of appointed members constitutes a quorum.

222.3(3) When a quorum is present, a position is carried by an affirmative vote of the majority of those present. No official business that requires a vote of the membership will be conducted without a quorum present.

441—222.4(231) Subcommittees. A council may designate one or more subcommittees to perform such duties as may be deemed necessary.

441—222.5(231) Expenses of preparedness advisory committee voting members. The following may be considered necessary expenses for reimbursement of council members who are individuals with disabilities or caregivers when incurred on behalf of council business and are subject to established state reimbursement rates:

1. Reimbursement for travel in a private car.
2. Actual lodging and meal expenses, including sales tax on lodging and meals.
3. Actual expense of public transportation.

441—222.6(231) Council composition. A council's composition must include nine members with at least 50 percent of members being individuals with disabilities or caregivers.

These rules are intended to implement Iowa Code chapter 231.

ITEM 4. Adopt the following new 441—Chapter 223:

CHAPTER 223
DISABILITY SERVICES

441—223.1(231) Eligibility for LTSS disability services. To be eligible for disability services system funding, an individual will meet the following financial and needs-based eligibility criteria.

223.1(1) Financial eligibility.

- a. An adult with disabilities will have an income equal to or less than 200 percent of the federal poverty level.
- b. A family of a child with disabilities will have an income equal to or less than 200 percent of the federal poverty level.
- c. A person who is eligible for federally funded services and other support will apply for such services and support.
- d. Income will be verified using the best information available.
- e. Financial eligibility will be reviewed on an annual basis and may be reviewed more often in response to increases or decreases in income.
- f. An individual who is eligible for medical assistance must apply for and exhaust such funding for services and support prior to utilization of disability service system funding.

223.1(2) *Resource requirements.* There are no resource limits for the family of a child seeking children's disability services. An adult seeking disability services must have resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household or follow the most recent federal supplemental security income guidelines.

a. The countable value of all countable resources, both liquid and nonliquid, shall be included in the eligibility determination, except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of qualifying, or with the intent to qualify, for assistance may result in denial or discontinuation of funding.

c. The following resources are exempt:

(1) A homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources are also exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

223.1(3) *Needs-based eligibility.*

a. An individual must be a resident of Iowa, or, if the individual is a minor, the custodial parent must be a resident of Iowa.

b. An individual must have a diagnosis of an intellectual disability, developmental disability, brain injury, or serious mental illness as defined in Iowa Code section 135.22, or the individual must reside in or be at risk of residing in institutional settings due to the individual's disability.

c. The results of a standardized functional assessment must support the type and frequency of disability services identified in the individual's case plan. A functional assessment must be completed within 60 days of application for services. The standardized functional assessment methodology will be developed by the department.

441—223.2(231) Option for waiting lists for disability services. The department will maintain a waiting list of individuals denied access to the program due to lack of available funds. Waiting list

information will include the date on which the individual was placed on the waiting list. If additional funds become available, the department will contact individuals on the list.

441—223.3(231) Access standards. DAPs shall meet the following access standards.

223.3(1) *Support for community living for adults.* The first appointment shall occur within 30 days of the individual's request for a home health aide, home and vehicle modification, respite, or supportive community living.

223.3(2) *Support for employment for adults.* The initial referral shall take place within seven days of the individual's request for day habilitation, job development, supported employment, or prevocational services.

223.3(3) *Service coordination.* An individual shall receive service coordination within ten days of the initial request for such service.

223.3(4) *Service limitations.* The following limitations apply for an individual receiving disability services:

a. A service limit equal to that established for the home- and community-based services waiver for individuals with disabilities in the medical assistance program created in Iowa Code chapter 249A.

b. A provider reimbursement payment will not be less than that provided through the home- and community-based services waiver for individuals with disabilities in the medical assistance program created in Iowa Code chapter 249A.

223.3(5) *Additional access standards.* Additional minimum access standards for STSS and LTSS will be defined in the DAP's district plan and approved by the department.

441—223.4(231) Appeal rights. The department will issue a notice of adverse action in accordance with 441—Chapter 16. The right to appeal will be given by the department in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code section 231.23.

ITEM 5. Adopt the following new 441—Chapter 224:

CHAPTER 224 AGING AND DISABILITY RESOURCE CENTERS

441—224.1(231) Definitions.

“Aging and disability resource center” or “ADRC” means a person-centered navigation and coordination system that blends and braids service delivery methods and funding to ensure supports and services contribute to a consumer's ability to remain at home and in the consumer's community. Supports and services are provided according to the individual's wants and needs.

“Aging and disability resource center member organization” or “ADRC member organization” means a local ADRC organization that provides ADRC information and assistance and person-centered functions at the local level.

“Information and assistance” means a service that provides an individual with current information on opportunities and services available within the individual's communities; identifies the problems and capacities of the individual; links the individual to the opportunities and services that are available; and, to the maximum extent practicable, ensures that the individual receives the services needed and is aware of the opportunities available by establishing adequate follow-up procedures.

“Medicaid administrative claiming” or “MAC” means federal matching funds under Medicaid are available for costs incurred by the state for administrative activities that directly support efforts to identify and enroll potential eligibles into Medicaid; support the provision of medical services covered under the state Medicaid plan when those activities are performed either directly by Iowa Medicaid or through contract or interagency agreement with another entity, such as a designated ADRC; or both.

“Navigator” means a person who provides ADRC information and assistance services, options counseling services, or both.

“Options counseling” means an interactive process whereby individuals receive guidance to make an informed choice about long-term supports. The process is directed by the individual and may include others whom the individual chooses or those who are legally authorized to represent the individual.

“System navigation” means in-person, online, and telephonic support for problem solving and navigation of the services and supports available. System navigators ensure individuals and families who encounter barriers in accessing services and support are able to navigate health care, social services, and legal systems.

441—224.2(231) Department responsibilities.

224.2(1) Pursuant to Iowa Code section 231.64, the department will administer ADRCs.

224.2(2) The department’s responsibilities are as follows:

- a. Perform all duties mandated by federal and state law.
- b. Designate ADRC member organizations and withdraw designation. If the department terminates its contract with an ADRC member organization for any reason, the entity is no longer designated by the department as an ADRC member organization.
- c. Provide oversight of the ADRC to ensure compliance with federal and state law and applicable rules and regulations.
- d. Monitor the operations and performance of the ADRC.
- e. Develop and use data and indicators to measure and assess the performance of the ADRC to ensure quality services, fair treatment, cost-effectiveness, and consumer satisfaction.

441—224.3(231) ADRC member organizations. The department designates entities as ADRC member organizations.

441—224.4(231) ADRC member organization responsibilities.

224.4(1) An ADRC member organization will provide services to eligible populations in its service area via telephone, in-person, or electronic communications.

224.4(2) An ADRC member organization will be physically accessible and provide services in a private and confidential manner.

224.4(3) An ADRC member organization will ensure a system is available for answering and responding to messages received outside of the regular business hours.

224.4(4) An ADRC member organization will provide services to a person by using clear language and providing for reasonable accommodations.

224.4(5) An ADRC member organization will provide person-centered supports and navigation services according to the individual’s personal preferences, identified needs, and unique capabilities to remain living at home and in the individual’s community.

224.4(6) An ADRC member organization will identify itself as an ADRC. The ADRC’s name may be the primary name or a subtitle to another name, but the designation of ADRC will be included in all advertising and outreach materials.

224.4(7) An ADRC member organization will adhere to the department’s Medicaid ADRC federal financial participation (FFP) process for MAC. Participation in MAC for activities that facilitate access to, or are in support of, Iowa’s Medicaid state plan are allowable. The ADRC will comply with the department-approved ADRC MAC methodologies.

441—224.5(231) ADRC member organization staff requirements and background checks.

224.5(1) *Staffing.* The ADRC member organization will ensure adequate staffing levels to meet the needs of the service delivery area. Staff performing ADRC services will demonstrate competency and knowledge pertinent to the staff’s areas of responsibility. Additionally, the ADRC will establish and maintain background check policies and procedures.

224.5(2) *Training and mandatory reporter status.* ADRC navigators are mandatory reporters pursuant to Iowa Code chapter 235B and will adhere to federal and state law and applicable rules for mandatory reporters.

441—224.6(231) Services. The ADRC will provide information and assistance and options counseling as defined within the contract issued by the department.

441—224.7(231) Appeals and grievances.

224.7(1) The ADRC will implement a process for reviewing and resolving individual grievances.

224.7(2) The department will issue a notice of adverse action in accordance with 441—Chapter 16. The right to appeal will be given by the department in accordance with 441—Chapter 7.

441—224.8(231) Reporting and records authority. The director is the principal officer of the state to administer ADRC data reporting. On behalf of the department, the ADRC shall report individual-level client data, information, and performance as required by the department. The ADRC shall also cooperate with any external review of its activities by the department or the federal government. The ADRC shall submit data according to the frequency, file layouts, format, and naming conventions prescribed by the department.

441—224.9(231) Confidentiality. The ADRC shall not disclose records that contain personally identifiable information concerning an individual receiving services to entities outside the department without the individual's informed consent or as authorized or required by law.

These rules are intended to implement Iowa Code section 231.64.

ITEM 6. Adopt the following new 441—Chapter 229:

CHAPTER 229 DATA COLLECTION

441—229.1(231) Authority. The director is the principal officer of the state to administer DAP aging and disability services data reporting. The department will collect and maintain data on all clients served in accordance with Iowa Code section 231.56.

229.1(1) *Submission of data.* Each DAP shall submit to the department the data regarding each individual the DAP serves.

a. DAPs shall submit data according to the frequency, file layouts, format, and naming conventions prescribed by the department.

b. When a DAP is notified by the department that the data are incomplete or are not compliant with the prescribed file layouts, format, or naming conventions, the DAP must correct the issue within 30 days of the notification.

229.1(2) *Data required.* The data to be submitted are as follows:

a. Individual client-level information, including a unique identifier, name, address, demographic information, service delivery information, referral information, and any other information as prescribed by the department.

b. The state identification number, when applicable.

c. Demographic information, including but not limited to date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veteran status, guardianship status, legal status in the system, source of referral, and diagnosis code in the International Classification of Diseases (ICD) as amended to July 1, 2025.

d. Service information, including but not limited to the decision on services, date of decision, termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

This rule is intended to implement Iowa Code section 231.56.

ARC 9002C**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 944, “Continuing Education for Barbering and Cosmetology Arts and Sciences,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 157 and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2686.

Purpose and Summary

2024 Iowa Acts, House File 2686, required that the Board of Barbering and Cosmetology Arts and Sciences adopt rules allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. The proposed rulemaking would grant barbers, cosmetologists, nail technologists, estheticians, electrologists, and instructors the ability to carry over up to three hours of continuing education earned in excess of the six 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 board.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition 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 April 8, 2025. Comments should be directed to:

Mary Collins
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100

Des Moines, Iowa 50321
Phone: 515.381.7028
Fax: 515.281.7969
Email: mary.collins@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 944.2(5) as follows:

944.2(5) ~~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. Licensees may apply a maximum of three hours from the previous renewal period in the prescribed practice discipline. Licensees cannot apply any hours in the content areas of Iowa barbering and cosmetology law and rules or infection control to the following 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 9046C

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Notice of Intended Action

Proposing rulemaking related to contribution rates and benefits and providing an opportunity for public comment

The Iowa Public Employees’ Retirement System (IPERS) hereby proposes to amend Chapter 4, “Employers,” and Chapter 11, “Application for, Modification of, and Termination of Benefits,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 97B.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 97B.15.

Purpose and Summary

This proposed rulemaking is intended to conform rules with other rules and statutes to meet the requirements of the statutory five-year review of rules for Chapters 4 and 11 and Executive Order 10; implement contribution rates for employers, regular members, and special service members beginning

July 1, 2025, to reflect FY 2026 rates; and remove from members the extra burden of providing proof of date of birth with their retirement application, currently mandated by paragraph 11.1(1)“a,” if having done so previously, by inserting language to that effect. Removing this burden fulfills a stated purpose of Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on January 8, 2025. A public hearing was held on the following date(s):

- 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 IPERS for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by IPERS no later than 4:30 p.m. on April 8, 2025. Comments should be directed to:

Cheryl Vander Hart
Iowa Public Employees Retirement System
7401 Register Drive
Des Moines, Iowa 50321
Phone: 515.281.7623
Email: cheryl.vanderhart@ipers.org

Public Hearing

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

April 8, 2025	IPERS
10 to 11 a.m.	7401 Register Drive
	Des Moines, Iowa
	Via conference call:
	teams.microsoft.com/join/meetup-join
	Meeting ID: 238 457 440 852
	Passcode: 9yr9qy2P

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 the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact IPERS 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 495—4.6(97B) as follows:

495—4.6(97B) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Contribution rates for regular class members.

a. No change.

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

	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025
Combined rate	15.73%	15.73%	15.73%	15.73%	15.73%	15.73%
Employer	9.44%	9.44%	9.44%	9.44%	9.44%	9.44%
Employee	6.29%	6.29%	6.29%	6.29%	6.29%	6.29%

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

	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025
Combined rate	18.52%	18.02%	17.52%	17.02%	17.02%	24.18%
Employer	9.26%	9.01%	8.76%	8.51%	8.51%	12.09%
Employee	9.26%	9.01%	8.76%	8.51%	8.51%	12.09%

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

	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025
Combined rate	16.02%	15.52%	15.52%	15.52%	15.52%	15.52%
Employer	9.61%	9.31%	9.31%	9.31%	9.31%	9.31%
Employee	6.41%	6.21%	6.21%	6.21%	6.21%	6.21%

4.6(4) to 4.6(7) No change.

ITEM 2. Amend paragraph **11.1(1)“a”** as follows:

a. Proof of date of birth for the member, if not previously verified by IPERS.

ARC 9007C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rulemaking related to rescission of chapters and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 21, “Licensure,” Chapter 22, “Infection Control for Barbershops and Barber Schools,” Chapter 23, “Barber

Schools,” Chapter 24, “Continuing Education for Barbers,” and Chapter 25, “Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147 and 272C and 2023 Iowa Acts, House File 652.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147 and 272C and 2023 Iowa Acts, House File 652.

Purpose and Summary

This proposed rulemaking would complete the merger process as directed by 2023 Iowa Acts, House File 652, which repealed Iowa Code chapter 158, created the Board of Barbering and Cosmetology Arts and Sciences (Board) by merging the Board of Barbering and the Board of Cosmetology Arts and Sciences, and preserved the legacy Board of Barbering rules until such time as the rules expire on their own or are otherwise repealed by the Board. Since the merger, the Board has merged and promulgated comprehensive administrative rules governing the barbering and cosmetology arts and sciences, which became effective July 1, 2024. The Board now intends to rescind all legacy rules of the Board of Barbering.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Board received no public comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the fund to cover operations of the regulated professional licensing 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 April 8, 2025. Comments should be directed to:

Mary Collins
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.381.7028
Fax: 515.281.7969
Email: mary.collins@dia.iowa.gov

Public Hearing

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

April 8, 2025
1:30 to 2 p.m.

6200 Park Avenue
Des Moines, Iowa

Virtual participation information will be made available on the Department's website prior to the public 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. Rescind and reserve **645—Chapter 21**.
- ITEM 2. Rescind and reserve **645—Chapter 22**.
- ITEM 3. Rescind and reserve **645—Chapter 23**.
- ITEM 4. Rescind and reserve **645—Chapter 24**.
- ITEM 5. Rescind and reserve **645—Chapter 25**.

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 March is 6.75%.

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 March 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:

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%
April 1, 2025 — April 30, 2025	6.50%

ARC 9021C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rulemaking related to child care centers**

The Department of Health and Human Services hereby rescinds Chapter 109, “Child Care Centers,” 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 237A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 237A and 45 CFR Part 98.

Purpose and Summary

This chapter was reviewed and is being rescinded and adopted new as a part of the Red Tape Review process laid out by Executive Order 10. This chapter assigns the minimum health, safety, and training requirements for licensed child care centers. This chapter aligns federal and state regulation with practical application of health and safety. The Department’s licensing and regulatory staff utilize this chapter to inspect child care facilities and hold the facilities accountable to minimum standards. Standards are aligned to checklist and inspection reports.

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 8514C**. A public hearing was held on the following date(s):

- January 14, 2025
- January 17, 2025

Multiple public comments were received regarding the age limits for caregivers. The Department received one public comment regarding the requirements for pediatric cardiopulmonary resuscitation (CPR) training.

One change from the Notice has been made in paragraph 109.6(1)“d” to provide clarification on the requirements for pediatric CPR training.

Adoption of Rulemaking

This rulemaking was adopted by the Department on February 25, 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 July 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 109 and adopt the following **new** chapter in lieu thereof:

CHAPTER 109
CHILD CARE CENTERS

441—109.1(237A) Definitions.

“*Adult*” means a person 18 years of age or older.

“*Child*” means the same as defined in Iowa Code section 237A.1.

“*Child care*” means the same as defined in Iowa Code section 237A.1.

“*Child care center*” or “*center*” means the same as defined in Iowa Code section 237A.1. For the purposes of this chapter, the word “center” applies to a child care center or preschool unless otherwise specified.

“*Child care facility*” or “*facility*” means the same as defined in Iowa Code section 237A.1.

“*Coaching*” means a relationship-based process led by an expert to build capacity for specific professional dispositions, skills and behaviors and is focused on performance-based outcomes.

“*Education*” means formal coursework offered through a state-approved accredited secondary school, college or university.

“*Facility*” means a building or physical plant established for the purpose of providing child day care.

“*Get-well center*” means a facility that cares for a child with an acute illness of short duration for short enrollment periods.

“*Involvement with child care*” means the same as defined in Iowa Code section 237A.1.

“*Parent*” means parent or legal guardian.

“*Person subject to an evaluation*” means the same as defined in Iowa Code section 237A.5.

“*Preschool*” means the same as defined in Iowa Code section 237A.1.

“*Professional development*” means a continuum of learning activities designed to prepare and support individuals for work with children and families, including coaching, education, and training.

“*Regulatory fee*” means the amount payable to the department for licensure of a child care center based on the capacity of the center.

“*Requesting entity*” means an entity covered by these rules that is requesting an evaluation to determine if the person being evaluated can have involvement with child care. The requesting entity must be a child care facility as defined in Iowa Code section 237A.1.

“*Serious injury*” means the same as defined in Iowa Code section 702.18.

“*Training*” means a learning experience that addresses a specific topic of professional relevance that builds or enhances knowledge.

“*Transgression*” means the same as defined in Iowa Code section 237A.5.

441—109.2(237A) Licensure procedures.

109.2(1) *Application for license.*

a. Any adult or agency has the right to apply for a license. The application for a license must be made to the department on a department-provided application for a license to operate a child care center.

b. Requested reports, including the fire marshal's report and other information relevant to the licensing determination, will be furnished to the department upon application and renewal.

c. A center must submit all required fingerprints to the department of public safety before the issuance or renewal of the center's license.

d. When a center makes a sufficient application for an initial license, the center may operate for a period of up to 120 calendar days from the date of issuance of the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has had an on-site visit and has submitted the following to the department:

- (1) An application for a license.
- (2) An approved fire marshal's report.
- (3) A floor plan indicating room descriptions and dimensions, including location of windows and doors.
- (4) Information sufficient to determine that the center director meets minimum personnel qualifications.

e. Applicants must submit the regulatory fee as specified in subrule 109.2(5) to the department.

f. Applicants must be notified of approval or denial of initial applications within 120 days from the date the application is submitted.

(1) If the applicant has been issued a form granting permission to open without a license, the applicant must be notified of approval or denial within 120 calendar days of the date of issuance of the form.

(2) No full or provisional license will be issued before payment of the applicable regulatory fee as determined pursuant to subrule 109.2(5).

g. The department will not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.

h. When the department has denied or revoked a license, the applicant or person is prohibited from involvement with child care unless the department specifically permits involvement through a record check decision.

109.2(2) License.

a. An applicant showing compliance with center licensing laws and these rules, including department approval of center plans and procedures and submission of the regulatory fee as specified in subrule 109.2(5) to the department by the date due, shall be issued a license for 24 months. In determining whether or not a center is in compliance with the intent of a licensing standard outlined in this chapter, the department will make the final decision.

b. A new license must be applied for when the center moves, expands, or the facility is remodeled to change licensed capacity.

c. A new license must be applied for when another adult or agency assumes ownership or legal responsibility for the center.

d. A provisional license may be issued or reduced pursuant to Iowa Code section 237A.2.

109.2(3) Denial. Initial applications or renewals will be denied when:

a. The center does not comply with center licensing laws and these rules in order to qualify for a full or provisional license.

b. The center is operating in a manner that the department determines impairs the safety, health, or well-being of children in care.

c. A person subject to an evaluation has transgressions that merit prohibition of involvement with child care and of licensure, as determined by the department.

d. Information provided either orally or in writing to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.

e. The center is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.

f. The regulatory fee as specified in subrule 109.2(5) is not received by the department within 60 calendar days from the due date on the invoice.

109.2(4) *Revocation and suspension.* A license will be revoked or suspended if corrective action has not been taken when:

- a.* The center does not comply with center licensing laws or these rules.
- b.* The center is operating in a manner that the department determines impairs the safety, health, or well-being of the children in care.
- c.* A person subject to an evaluation has transgressions that merit prohibition of involvement with child care and of licensure, as determined by the department.
- d.* Information provided to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.
- e.* The facility is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal, fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.
- f.* The regulatory fee as specified in subrule 109.2(5) is not paid in full due to insufficient funds to cover a check submitted to the department for the fee.

109.2(5) *Regulatory fees.* A fee based upon center capacity is due to the department at the time of issuance of the license in accordance with this subrule.

- a. Fee structure.* The amount of the fee is based on the capacity of the center as indicated below:

<u>Center Capacity</u>	<u>Fee Amount</u>
0 to 20 children	\$50
21 to 50 children	\$75
51 to 100 children	\$100
101 to 150 children	\$125
151 or more children	\$150

- b. Determination of capacity.* The licensing consultant must determine center capacity by dividing the amount of usable space by the amount of space required per child as specified in subrule 109.11(1). Upon approval by the department, the final determination of center capacity may include evaluation of other factors that influence capacity, as long as physical space requirements per child as defined in subrule 109.11(1) are maintained.

- c. Notification.* Upon final determination of center capacity by the licensing consultant, the licensing consultant or designee must sign and provide the child care center licensing fee invoice to the center.

- d. Payment.* The center must return the child care center licensing fee invoice to the department with the licensing fee payment within 60 calendar days from the date on the invoice. Regulatory fees are nonrefundable and nontransferable.

109.2(6) *Adverse actions.*

- a.* Notice of adverse actions for a denial, revocation, or suspension and the right to appeal the licensing decision will be given to applicants and licensees in accordance with 441—Chapter 7 and 441—subrule 16.2(3).

- b.* A letter received by an owner or director of a licensed center initiating action to deny, suspend, or revoke the facility's license must be conspicuously posted at the main entrance to the facility. The letter will remain posted until resolution of the action to deny, suspend, or revoke the license. If the action to deny, suspend, or revoke is upheld, the center must return the license to the department.

- c.* If the center's license is denied, suspended, or revoked, the department will notify the parent, guardian, or legal custodian of each child for whom the facility provides child care.

- d.* The center must cooperate with the department in providing the names and addresses of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

441—109.3(237A) *Inspection and evaluation.* The department will conduct an unannounced on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure and will determine compliance with licensing standards imposed by licensing laws and these rules when a valid complaint is received.

109.3(1) At least one unannounced on-site visit will be conducted each calendar year.

109.3(2) After each visit and valid complaint, the department will document whether a center was in compliance with center licensing standards imposed by licensing laws and these rules.

109.3(3) The written documentation of the department's conclusion as to whether a center was in compliance with licensing standards for all licensing visits and valid complaints will be available to the public. However, the identity of the complainant will be withheld unless expressly waived by the complainant.

441—109.4(237A) Administration.

109.4(1) *Required written policies.* The child care center owner, board or director shall:

a. Develop and implement policies for enrollment and discharge of children, field trips and noncenter activities, discipline/behavior, nutrition, health and safety policies and, if transporting children, transportation policy.

b. Develop a curriculum or program structure that uses developmentally appropriate practices and an activity program appropriate to the developmental level and needs of the children.

c. Develop and implement a written plan for staff orientation to the center's policies and to the provisions of this chapter.

d. Make available for review a copy of the center policies and programs to all staff at the time of employment and each parent at the time a child is admitted to the center. A copy of the fee policies and financial agreements shall be provided to each parent at the time a child is admitted to the center.

e. When serving children under the age of three, develop and implement a policy for responding to incidents of biting.

f. Develop and implement a policy to ensure that people do not have unauthorized access to children at the center.

g. Develop and implement a policy for protection of each child's confidentiality.

h. Develop and implement procedures for medical and dental emergencies, and ensure through orientation and training that all staff are knowledgeable of and able to implement the procedures.

109.4(2) *Required postings.* The following postings must be conspicuously posted in an area frequented by parents or the public:

a. Certificate of license at the main entrance of the center.

b. Notice of exposure of children to a communicable disease. The notice of exposure of children to a communicable disease will include the symptoms and the period of communicability.

c. Notice of decision to deny, suspend, or revoke the center's license or reduce the center's license to a provisional status, if applicable.

d. Mandatory reporter requirements.

e. Notice of availability of the handbook "Child Care Centers and Preschools Licensing Standards and Procedures (August 1, 2024)."

f. Name and contact information of the department's child care licensing consultant.

g. Program activities and menu.

109.4(3) *Mandatory reporters.* Methods of identifying and reporting suspected child abuse and neglect shall be discussed with all staff within 30 days of employment.

441—109.5(237A) Parental participation. Parents must be afforded unlimited access to their children and to the provider caring for their children during the center's hours of operation or whenever their children are in the care of a provider unless parental contact is prohibited by court order. The provider will inform all parents of this policy in writing at the time the child is admitted to the center.

441—109.6(237A) Personnel. The director of the center must develop policies for hiring and maintaining staff that demonstrate competence in working with children and that meet the following minimum requirements:

109.6(1) *Center director requirements.* Centers that have multiple sites must have a center director or on-site supervisor in each center. The center director is responsible for the overall functions of the center, including supervising staff, designing curriculum and program administration. The director must

ensure services are provided for the children within the framework of the licensing requirements. The center director must have overall responsibility for carrying out the program and ensuring the safety and protection of the children. The following minimum qualifications must be submitted to the child care consultant for final approval prior to the start of employment. The center director:

- a. Is at least 21 years of age.
- b. Has obtained a high school diploma or passed a general education development test.
- c. Has completed at least one course in business administration or 12 contact hours in administrative-related training related to personnel, supervision, recordkeeping, or budgeting, or has one year of administrative-related experience.
- d. Has certification in pediatric cardiopulmonary resuscitation (CPR), pediatric first aid, and Iowa's training for the mandatory reporting of child abuse.
- e. Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	25	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	60	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	45	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	25	Registered child development home provider	10	
		Nonregistered family home provider	5	

(1) In obtaining the total of 100 points, a minimum of two categories must be used, no more than 75 points may be achieved in any one category, and at least 20 points shall be obtained from the experience category.

(2) Points obtained in the child development-related training category must have been taken within the past five years.

(3) For directors in centers predominantly serving children with special needs, the directors may substitute a disabilities-related or nursing degree for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, experience in working with children with special needs in an administrative or direct care capacity must be equivalent to full-time experience in a child care center or preschool in determining point totals.

109.6(2) On-site supervisor: The on-site supervisor is required to be present when the program has multiple sites or when a director is not routinely present for six hours daily. The center director must identify a person in charge during the on-site supervisor's absence. The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of six hours of the center's hours of operation. The following minimum qualifications will be submitted to the child care consultant for final approval prior to the start of employment. The on-site supervisor:

- a. Is at least 18 years of age.
- b. Has obtained a high school diploma or passed a general education development test.

c. Has certification in infant, child, and adult CPR; infant, child, and adult first aid; and Iowa's mandatory reporting of child abuse.

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the chart and calculation described in subrule 109.6(1). A minimum of two categories must be used, no more than 50 points may be achieved in any one category, and at least 10 points must be obtained from the experience category.

109.6(3) Volunteers. A volunteer must be at least 16 years of age. All volunteers shall:

a. Sign a statement indicating whether or not they have one of the following:

(1) A conviction of any law in any state or any record of founded child abuse or dependent adult abuse in any state.

(2) A communicable disease or other health concern that could pose a threat to the health, safety, or well-being of the children.

b. Sign a statement indicating the volunteer has been informed of the volunteer's responsibilities as a mandatory reporter.

c. Undergo the record check process when any of the following criteria are met:

(1) The volunteer is included in meeting the required child-to-staff ratio;

(2) The volunteer has direct responsibility for a child or children; or

(3) The volunteer has access to a child or children with no other staff present.

d. Have on file at the facility a record containing the statements required in paragraphs 109.6(3) "a" and "b" and documentation of any record check process. The record must be maintained as required in paragraph 109.9(1) "a."

109.6(4) Record checks.

a. *Criminal and child abuse record checks.* Criminal and child abuse record checks shall be conducted for:

(1) Each owner, director, staff member, volunteer, or subcontracted staff person with direct responsibility for child care or with access to a child when the child is alone;

(2) Anyone living in the child care facility who is 14 years of age or older.

b. *Authorization.* A requesting entity shall request a record check evaluation prior to the employment of a person subject to record checks. The person subject to record checks shall complete the department's criminal history record check form and any other forms required by the department of public safety to authorize the release of records.

c. *Iowa records checks.* Checks and evaluations of Iowa child abuse and criminal records, including the sex offender registry, must be completed before the person's involvement with child care at the center. Iowa records checks must be repeated at a minimum of every two years and when the department or the center becomes aware of any possible transgressions. The department is not responsible for the cost of conducting the Iowa records check.

(1) The child care center may access the single-contact repository (SING) as necessary to conduct a criminal and child abuse record check of the person in Iowa. If the results of the check indicate a potential transgression, the center will send a copy of the results to the department for determination of whether or not the person may be involved with child care, regardless of the person's status with the center.

(2) Unless a record check has already been conducted in accordance with subparagraph 109.6(4) "c" (1), the department must conduct a criminal and child abuse record check in Iowa for a person who is subject to a record check. The department may access SING to conduct the record check. The department may also conduct dependent adult abuse, sex offender, and other public or civil offense record checks in Iowa for a person who is subject to a record check.

d. *National criminal history checks.* National criminal history checks based on fingerprints are required for all persons subject to record checks. The national criminal history check must be repeated for each person every four years and when the department or center becomes aware of any new transgressions committed by that person in another state. The department is not responsible for the cost of conducting the national criminal history check.

(1) The child care center is responsible for obtaining the fingerprints of all persons subject to record checks.

(2) If the results of the Iowa records checks do not warrant prohibition of the person's involvement with child care or otherwise present protective concerns, the person may be involved with child care on a provisional basis until the national criminal history check and evaluation have been completed.

(3) The child care center will provide fingerprints to the department of public safety prior to a person's involvement with child care at the center. The center will submit the fingerprints on forms or in a manner allowed by the department of public safety.

(4) Centers that are required to submit fingerprint-based checks of the FBI national criminal database to comply with federal regulations may seek a waiver to substitute that record check for the procedure required in this subrule. Requests for a waiver must be submitted on a form prescribed by the department to the address listed on the form.

(5) A center considering involvement of a person who has had a national criminal history check at another center may request information from that center. That center may provide that information in writing upon a center's request, using a form prescribed by the department. If the person being considered for employment has not had involvement with child care in the past six months, a new national criminal history check must be completed.

(6) If the results of the national criminal history check indicate that the person has committed a transgression, the center, if interested in continuing the person's involvement in child care, must send a copy of the results to the department for evaluation. The department will determine whether or not the person may be involved with child care.

e. Mandatory and mandatory time-limited prohibition. A person with any convictions or founded abuse reports as defined in Iowa Code section 237A.5(2) "i" is prohibited from involvement with child care.

f. Evaluation required. For all other transgressions, and as requested under paragraph 109.6(4) "e," the department will notify the requesting entity that an evaluation shall be conducted to determine whether prohibition of the person's involvement with child care is warranted.

(1) The person with the transgression must complete the record check evaluation form. The requesting entity must provide the form and any other documents to the department within ten calendar days of the date on the form. The department will use the information the person with the transgression provides on this form to assist in the evaluation. Failure of the person with the transgression to complete and the requesting entity to return this form by the specified date will result in denial or revocation of the license or denial of employment. The department will not process evaluations that are not signed by the person subject to an evaluation.

(2) The department may use information from the department's case records in performing the evaluation.

(3) The requesting entity may provide, or the department may request from the person subject to an evaluation or from the requesting entity, information to assist in performance of the evaluation.

(4) Any person or agency that might have pertinent information regarding criminal or abuse history and rehabilitation of the prospective employee may be contacted.

(5) In an evaluation, the department will consider all of the factors established in Iowa Code section 237A.5(2) "h."

(6) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person's involvement with child care and has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department's previous evaluation. The exemption is subject to all of the provisions established in Iowa Code section 237A.5(2) "g."

g. Evaluation decision. Within 30 days of receipt of a completed record check evaluation, the department will make a decision on the person's involvement with child care. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.

(1) The department will mail to the requesting entity and the person on whom the evaluation was completed the record check decision that explains the decision reached regarding the evaluation of the transgression.

(2) If the department determines through an evaluation of a person's transgressions that the person's prohibition of involvement with child care is warranted, the person will be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed.

(3) The department may permit a person who is evaluated to maintain involvement with child care if the person complies with the department's conditions and corrective action plan relating to the person's involvement with child care.

(4) The department will send a letter to the employer that informs the employer whether the person subject to an evaluation has been approved or denied involvement with child care. If the person has been approved, the letter will inform the employer of any conditions and corrective action plan relating to the person's involvement with child care.

h. Notice to parents. The department will provide notification of founded child abuse committed by an owner, director, or staff member of the child care center pursuant to Iowa Code section 237A.5(2) "k." The center must cooperate with the department in providing the names and addresses of the parents, guardians, and legal custodians of each child for whom the facility provides child care.

109.6(5) Use of controlled substances and medications. All owners, personnel, and volunteers must be free of the use of illegal drugs and not be under the influence of alcohol or of any prescription or nonprescription drug that could impair their ability to function.

441—109.7(237A) Professional growth and development. Professional development will supplement the educational and experience requirements in rule 441—109.6(237A) and shall enhance the staff's skill in working with the developmental and cultural characteristics of the children served. The center director, on-site supervisor, and staff counted as part of the staff ratio must meet the following minimum staff training requirements:

109.7(1) Required training within the first three months of employment. During their first three months of employment, all staff must receive the following training:

- a.* Iowa's training for mandatory reporting of child abuse.
- b.* At least one hour of training regarding universal precautions.
- c.* Certification in infant, child, and adult CPR. A valid certificate indicating the date of training and expiration date will be maintained.
- d.* Certification in infant, child, and adult first aid. A valid certificate indicating the date of training and expiration date must be maintained.
- e.* Essential child care pre-service or equivalent minimum health and safety training approved by the department in the following areas:
 - (1) Prevention and control of infectious disease, including immunizations.
 - (2) Prevention of sudden infant death syndrome and use of safe sleep practices.
 - (3) Administration of medication, consistent with standards for parental consent.
 - (4) Prevention of and response to emergencies due to food and allergic reactions.
 - (5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.
 - (6) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment.
 - (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
 - (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
 - (9) Precautions in transporting children.
 - (10) Child development.

Essential child care pre-service or equivalent minimum health and safety training may be required if content has significant changes that warrant that the training be renewed.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(1)“e”(2) and 109.7(1)“e”(6).

109.7(2) Center directors and all staff.

a. During their first year of employment, all center directors and all staff will receive the following training:

(1) Ten contact hours of training from approved subject areas from the Council for Professional Recognition or approved content areas from the National Afterschool Association.

(2) Training received for CPR, first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours.

(3) A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

b. Following their first year of employment, all center directors and all staff must:

(1) Maintain current certification for Iowa’s training for the mandatory reporting of child abuse; infant, child and adult CPR; and infant, child and adult first aid.

(2) Staff must receive six contact hours of professional development annually from one or more of the subject areas under subparagraph 109.7(2)“a”(1).

(3) Center directors and on-site supervisors must receive eight contact hours of training annually from one or more approved subject areas under subparagraph 109.7(2)“a”(1).

109.7(3) Staff employed in centers that operate summer-only programs. During their first three months of employment, all staff shall receive the following training:

a. Iowa’s training for mandatory reporting of child abuse.

b. At least one hour of training regarding universal precautions.

c. Certification in infant, child, and adult CPR. A valid certificate indicating the date of training and expiration date shall be maintained.

d. Certification in infant, child, and adult first aid. A valid certificate indicating the date of training and expiration date shall be maintained.

e. Essential child care pre-service or equivalent minimum health and safety training approved by the department in the following areas:

(1) Prevention and control of infectious disease, including immunizations.

(2) Prevention of sudden infant death syndrome and use of safe sleep practices.

(3) Administration of medication, consistent with standards for parental consent.

(4) Prevention of and response to emergencies due to food and allergic reactions.

(5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.

(6) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment.

(7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.

(8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.

(9) Precautions in transporting children.

(10) Child development.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(3)“e”(2) and 109.7(3)“e”(6).

109.7(4) Substitution. A provider who submits documentation from a child care resource and referral agency that the provider has completed the Iowa Program for Infant/Toddler Care (IA PITC) (August 1, 2024), or Early Childhood-Positive Behavior Interventions and Supports (EC-PBIS) training series (August 1, 2024) may use those hours to fulfill a maximum of two years’ professional development requirements, not including preservice, first-aid, CPR and mandatory reporter training.

109.7(5) Approved professional development.

a. Professional development contact hours can be coaching, education, or training provided by a department-approved entity.

b. Coaching contact hours may only be used to meet up to half of an individual’s annual professional development requirement.

c. The department may randomly monitor any state-approved professional development for quality control purposes.

d. Professional development conducted with staff during the hours of operation of the facility, during staff lunch hours, or while children are resting must not diminish the required staff ratio coverage. Staff must not be actively engaged in care and supervision and simultaneously participate in training.

e. A professional development organization not approved by the department may submit for review to the department a request for child care training approval. All approvals unless otherwise specified shall be valid for five years. The department will issue its decision within 30 business days of receipt of a complete request.

f. Department-approved entities must provide participants a professional development certificate for approved professional development contact hours.

109.7(6) Professional development for supervisors and designees. The director, on-site supervisor, and any person designated as a lead in the absence of supervisory staff must have completed all preservice/orientation training outlined in subrule 109.7(1).

441—109.8(237A) Staff ratio requirements.

109.8(1) Staff requirements. Persons counted as part of the staff ratio must meet the following requirements:

- a. Staff persons must be at least 16 years of age.
- b. Those staff persons who are under the age of 18 shall meet the following requirements:
 - (1) May not be the sole provider on the premises of a child care facility.
 - (2) Shall not provide transportation to children in care.
 - (3) If staff persons under the age of 18 are providing child care services without an adult, they shall only provide care to school-aged children.
 - (4) May be utilized for brief periods of absence as identified in paragraph 109.8(2)“g” and scheduled nap periods of children over two years of age as identified in paragraph 109.8(2)“h.”

109.8(2) Staff ratio. The staff-to-child ratio shall be as follows:

<u>Age of children</u>	<u>Minimum ratio of staff to children</u>
Two weeks to two years	One to every 4 children
Two years	One to every 7 children
Three years	One to every 10 children
Four years	One to every 12 children
Five years to ten years	One to every 15 children
Ten years and over	One to every 20 children

a. Combinations of age groupings for children four years of age and older may be allowed and may have staff ratio determined on the age of the majority of the children in the group.

b. Combinations of age groupings for children three, four, and five years of age may be allowed with a ratio of one staff member to every 12 children.

c. Children between 18 months and three years of age may be combined, if appropriate to the developmental needs of the child. If a child under two years of age is in a combined age group, the staff ratio of one to seven will be maintained. Otherwise, staff ratio may be determined by the age of the majority of the children in the group.

d. Combinations of age groupings that do not meet paragraphs 109.8(2)“a” through “c” may be approved by a child care licensing consultant when a program can show developmentally appropriate curriculum for all age groups and can provide sufficient supervision.

e. Combinations of age groupings for children five years of age and older must have a ratio consistent with the age of majority.

f. Upon the recommendation of a child’s physician or the area education agency serving the child, a child who is two years of age or older with a disability that results in significant developmental delays

in physical and cognitive functioning who does not pose a threat to the safety of the infants may, if appropriate and for a limited time approved by the department, remain in the infant area.

g. Every child-occupied program room must have supervision present in the room. Brief absences of a staff member may be allowed for no more than five minutes when another staff person is present.

h. During nap time, at least one staff member must be present in every room where children are resting. Staff ratio requirements may be reduced to one staff member per room where children are resting and staff ratio coverage can be maintained in the center. The staff ratio must always be maintained for children under two years of age.

i. When more than eight children are present on the licensed premises, at least two staff members shall be present.

j. For a period of two hours or less at the beginning and end of the center's hours of operation, one staff member may care for eight or fewer children, provided no more than four of the children are under two years of age and there are no more than eight children in the center.

k. When more than eight children are being transported in one vehicle, at least two staff members must be present, one of which is over 18 years of age.

(1) Only one adult is required when a center is transporting children in a center-owned vehicle with parent authorization for the sole purpose of transporting children to and from school.

(2) When a center contracts with another entity to provide transportation other than for the purpose of transporting children to or from school, at least one adult staff in addition to the driver must be present if at least eight children provided care by the center are transported.

l. Any child care center-sponsored program activity involving six or more children conducted away from the licensed facility shall provide a minimum of one additional staff over the required staff ratio for the protection of the children. At least one staff present on field trips must be over 18 years of age.

m. For centers serving school-age children, the ratio for school-age children may be exceeded for a period of no more than four hours during a day when school classes start late or are dismissed early or canceled due to inclement weather or structural damage provided the children are already enrolled at the center and the center does not exceed the licensed capacity.

109.8(3) Group size. Group size is determined in collaboration with the state fire marshal and will be assigned based on the review of health and safety requirements. Maximum capacity allowed shall be included on the certificate of license. Group sizes by age group must be included in annual inspection reports.

441—109.9(237A) Records.

109.9(1) Personnel records. The center will maintain personnel information sufficient to ensure that persons employed in the center meet minimum staff and training requirements and do not pose any threat to the health, safety, or well-being of the children. Each employee's file must contain, at a minimum, the following:

a. Copies of all record checks kept in accordance with state and federal law regarding confidentiality of record checks. These records shall include:

(1) A copy of a department criminal history record check form or any other permission form approved by the department of public safety for conducting an Iowa or national criminal history record check.

(2) A copy of a request for child abuse information form, when applicable.

(3) Copies of the results of Iowa record checks conducted through the SING for review by the department upon request.

(4) Copies of national criminal history check results.

(5) Any department-issued documents sent to the center related to a record check, regardless of findings.

b. A physical examination report. As required in Iowa Code section 237A.5(1), personnel shall have good health as evidenced by a preemployment physical examination. Acceptable physical examinations shall be documented on a form prescribed by the department. The examination shall be

performed within six months prior to beginning employment and shall be repeated at least every three years. A physical examination may be requested if the employer has reason to believe an employee would not be able to perform a job successfully or safely due to a medical condition.

c. Documentation showing the minimum staff training requirements as outlined in rule 441—109.7(237A) are met, including current certifications in first aid and CPR and Iowa's training for the mandatory reporting of child abuse.

d. A photocopy of a valid driver's license if the staff will be involved in the transportation of children.

109.9(2) *Child's file.* Centers must maintain current and sufficient information in a file for each child that includes:

a. Child enrollment information, including name, age, date of birth, and address.

b. Parent/guardian contact information.

c. Emergency contacts and persons who can pick up the child as authorized by the parent.

d. Contact information and authorization of emergency medical and dental services.

e. Health and medical needs of a child, including any allergies or special health needs, a written emergency plan and prescribed treatment.

f. Incident reports of injuries, accidents, or other incidents, as applicable.

g. Parent authorization for a child to attend center-sponsored field trips and noncenter activities.

h. Signed and dated valid Certificate of Immunization, Certificate of Immunization Exemption, or Provisional Certificate of Immunization, provided by the department must be on file for each child enrolled as required by 641—Chapter 7.

i. For each child not yet enrolled in kindergarten, the child care center must require a physical examination submitted at enrollment but no later than within four weeks of admission. The physical should include a health history and status of present health, including allergies, medications, acute or chronic conditions, and care plan when needed. The physical should be completed and signed by the child's primary health care provider (MD, DO, chiropractor, PA, or ARNP). The date of the physical examination shall be no more than 12 months prior to the first day of admission and annually thereafter until kindergarten entry.

j. For school-aged children, the child care center must have a statement of health signed by the parent indicating the child's health status, allergies, medications, acute or chronic conditions and care plan when needed.

k. For a child who has a special health need, there must be a written care plan completed and signed by the child's primary health care provider (MD, DO, chiropractor, PA, or ARNP) or parent or guardian. The care plan should include the care needed, when the care is to be given, and any possible complications or side effects, including required interventions. Documentation of special needs provided should be in a manner similar to documentation for medication administration.

109.9(3) *Daily activities.* For each child under two years of age, the center must make a daily written record. At the end of the child's day at the center, the daily written record shall be provided verbally or in writing to the parent or the person who removes the child from the center. The record shall contain information on each of these areas:

a. The time periods in which the child has slept.

b. The amount of food consumed and the times at which the child has eaten.

c. The time of and any irregularities in the child's elimination patterns.

d. The general disposition of the child.

e. A general summary of the activities in which the child participated.

441—109.10(237A) Health and safety policies. The child care center will establish definite health policies, including the criteria for excluding a sick child from a center. The child care center may be provided guidance from the child care center's child care nurse consultant or the department regarding exclusion of an exposed child or staff during a communicable disease outbreak.

109.10(1) Medications. The center shall have written procedures for the dispensing, storage, authorization, and recording of all prescription medications, nonprescription medications, and nonmedicated topical products, including the following:

- a. Staff must be over 18 to administer medication.
- b. All medications must be stored in their original containers, with accompanying physician or pharmacist's directions and label intact and stored so the medications are inaccessible to children and the public. Nonprescription medications must be labeled with the child's name.
- c. For every day an authorization for medication is in effect and the child is in attendance, there shall be a notation of administration, including the name of the medicine, date, time, dosage given or applied, and the initials of the person administering the medication or the reason the medication was not given.
- d. In the case of medications that are administered on an ongoing, long-term basis, authorization must be obtained for a period not to exceed the duration of the prescription.
- e. A child care staff member shall not provide medications to a child if the staff member has not completed preservice/orientation training that includes medication administration.

109.10(2) Daily contact. Each child shall have direct contact with a staff person upon arrival for early detection of apparent illness, communicable disease, or unusual condition or behavior that may adversely affect the child or the group.

109.10(3) Infectious disease control. Centers must establish policies and procedures related to infectious disease control and the use of universal precautions with the handling of any bodily fluids that include blood, bodily excrement or discharge. Soiled diapers shall be stored in containers separate from other waste. Sanitation and safety procedures for the center are developed and implemented to reduce the risk of injury or harm to children and reduce the transmission of disease.

109.10(4) Quiet area for ill or injured. The center will provide a quiet area under supervision for a child who appears to be ill or injured. The parents or a designated person will be notified of the child's status in the event of a serious illness or emergency.

109.10(5) Staff hand washing. The center must ensure that staff demonstrate clean personal hygiene sufficient to prevent or minimize the transmission of illness or disease.

109.10(6) Children's hand washing. The center shall ensure that staff assist children in personal hygiene sufficient to prevent or minimize the transmission of illness or disease. For each infant or child with a disability, a separate cloth for washing, one for rinsing, and one for drying may be used in place of running water.

109.10(7) First-aid kit. The center must ensure that a clearly labeled first-aid kit is available and easily accessible to staff at all times whenever children are in the center, in the outdoor play area, and on field trips. The kit must be sufficient to address first aid related to minor injury or trauma and stored in an area inaccessible to children.

109.10(8) Recording incidents.

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

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

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

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

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

109.10(9) *Smoking.* Smoking and the use of tobacco products must be prohibited and nonsmoking signs must be posted pursuant to Iowa Code chapter 142D.

109.10(10) *Transportation.* Children must be transported pursuant to Iowa Code section 321.446.

109.10(11) *Field trips.* Emergency telephone numbers and emergency health plans, as applicable, for each child must be taken by staff when transporting children to and from school and on field trips and non-center-sponsored activities away from the premises.

109.10(12) *Pets.* Animals kept on site must be in good health with no evidence of disease, be of such disposition as to not pose a safety threat to children, and be maintained in a clean and sanitary manner. Documentation of current vaccinations shall be available for all cats and dogs. No ferrets; reptiles, including turtles; or birds of the parrot family can be kept on site. Pets are not allowed in the kitchen or food preparation areas.

109.10(13) *Emergency plans.*

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood) and plans for responding to intoxicated parents and lost or abducted children. Emergency plans must include written procedures, including plans for the following:

- (1) Evacuation to safely leave the facility.
- (2) Relocation to a common, safe location after evacuation.
- (3) Shelter-in-place to take immediate shelter when the current location is unsafe to leave due to the emergency issue.
- (4) Lockdown to protect children and providers from an external situation.
- (5) Communication and reunification with parents or other adults responsible for the children that includes emergency telephone numbers.
- (6) Continuity of operations.
- (7) To address the needs of individual children, including those with functional or access needs.

b. Emergency instructions; telephone numbers; and diagrams for fire, tornado, and flood (if area is susceptible to floods) must be visibly posted by all program and outdoor exits. Emergency plan procedures must be practiced and documented at least once a month for fire and for tornado. Records on the practice of fire and tornado drills must be maintained for the current and previous year.

c. The center must develop procedures for annual staff and volunteer training on these emergency plans and include information on responding to fire, tornadoes, intruders, intoxicated parents, and lost or abducted children in the orientation provided to new employees and volunteers.

d. The center must conduct a daily check to ensure that all exits are unobstructed.

109.10(14) *Supervision and access.*

a. The center director and on-site supervisor must ensure that each staff member or volunteer knows the number and names of children assigned to that staff member or volunteer for care. Assigned staff and volunteers must provide careful supervision.

b. Any person in the center who is not an owner, staff member, or volunteer who has a record check and department approval to be involved with child care must not have unrestricted access to children for whom that person is not the parent, guardian, or custodian.

c. A parent who is a registered sex offender under Iowa Code chapter 692A cannot be present upon the property of a child care center except for the time reasonably necessary to transport the offender's own minor child or ward to and from the center. Under limited circumstances, a center director may give written permission to be on the property. Before giving written permission, the center director will consult with the center licensing consultant. The written permission must be signed and dated by the center director and the sex offender and kept on file for review by the center licensing consultant.

441—109.11(237A) Physical facilities.

109.11(1) *Room size.* The program room size must be a minimum of 80 square feet of useable floor space or sufficient floor space to provide 35 square feet of useable floor space per child. In rooms where floor space occupied by cribs is counted as useable floor space, there must be 40 square feet of floor space per child. Kitchens, bathrooms, halls, lobby areas, storage areas and other areas of the center not

designed as activity space for children cannot be used as regular program space or counted as useable floor space.

109.11(2) *Play equipment, materials and furniture.*

a. The center will provide sufficient and safe indoor play equipment, materials, and furniture that conform with the standards or recommendations of the Consumer Product Safety Commission (CPSC) (August 1, 2024) or the American Society for Testing and Materials (ASTM) (August 1, 2024) for juvenile products. Play equipment, materials, and furniture must meet the developmental, activity, and special needs of the children.

b. Rooms must be arranged so as not to obstruct the direct observation of children by staff. Individual covered mats, beds, or cots and appropriate bedding will be provided for all children who nap. The center will develop procedures to ensure that all equipment and materials are maintained in a sanitary manner. Sufficient spacing must be maintained. The center shall provide sufficient toilet articles for each child for hand washing.

109.11(3) *Indoor facility requirements.*

a. The center shall ensure that:

(1) The facility and premises are sanitary, safe and hazard-free.

(2) The facility has sufficient:

1. Lighting.

2. Ventilation.

3. Heating and cooling.

(3) Equipment placed in a program area is maintained so as not to result in injury to children.

109.11(4) *Outdoor facility requirements.*

a. Centers must have a safe outdoor program area adjacent to the center, with sufficient square footage to accommodate at least 30 percent of the enrollment capacity at any one time at 75 square feet per child. The outdoor area must:

(1) Be free from litter and unsafe materials and free from contamination by the drainage or ponding of sewage or storm water.

(2) Include safe play equipment and an area of shade.

(3) Include fencing to protect from bodies of water and vehicular traffic.

b. The director or designated person must complete and keep a record of at least monthly inspections of the outdoor play area and equipment for the purpose of assessing and rectifying potential safety hazards. If the outdoor play area is not used for a period of time due to inclement weather conditions, the center shall document the reasons why the monthly inspection did not occur and must complete and document an inspection prior to resuming use of the area.

c. Approval may be given by the department to waive the outdoor space requirement for programs of three hours or less, provided there is suitable substitute space and equipment available.

d. Approval may be given by the department for centers operating in a densely developed area to use alternative outdoor play areas in lieu of adjacent outdoor play areas.

109.11(5) *Bathroom facilities.* At least one functioning toilet and one sink per 15 children two years of age and older must be provided in a room with natural or artificial ventilation. New construction after November 1, 1995, must provide for at least one sink in the same area as the toilet and, for centers serving children two weeks to two years of age, shall provide for at least one sink in the central diapering area. At least one sink must be provided in program rooms for infants and toddlers or in an adjacent area other than the kitchen. New construction after April 1, 1998, shall have at least one sink provided in the program rooms for infants and toddlers.

109.11(6) *Telephone.* A working nonpay telephone must be available in the center with emergency telephone numbers for police or 911, fire, ambulance, and poison control center posted in a conspicuous area. The street address and telephone number of the center must be included in the posting. A separate file or listing of emergency telephone numbers for each child shall be maintained.

109.11(7) *Kitchen appliances.* Gas or electric ranges or ovens shall not be placed in the program area. If kitchen appliances are maintained in the program area for food preparation activities, the area must be sectioned off and shall not be counted as useable floor space for room size.

109.11(8) Environmental hazards.

a. Within one year of being issued an initial or renewal license, centers operating in facilities built prior to 1978 shall conduct a visual assessment for lead hazards that exist in the form of peeling, cracking or chipping paint or painted surfaces in need of repair. If these lead hazards are found, it shall be assumed that lead-based paint is present on the surfaces, and the surfaces shall be repaired by an Iowa certified lead-safe renovator before a full license will be issued.

b. Within one year of being issued an initial or renewal license, centers operating in facilities that are at ground level, use a basement area as program space, or have a basement beneath the program area shall have radon testing following the National Consensus Standards as outlined in 641—Chapter 43.

c. To reduce the risk of carbon monoxide poisoning, all centers shall, on an annual basis, have a professional inspect all fuel-burning appliances, including oil and gas furnaces, gas water heaters, gas ranges and ovens, and gas dryers, to ensure the appliances are in good working order with proper ventilation. All centers shall install one carbon monoxide detector on each floor of the center that is listed with Underwriters Laboratory (UL) as conforming to UL Standard 2034 (August 7, 2024).

441—109.12(237A) Activity program requirements.

109.12(1) Activities. The center shall have a written curriculum that uses developmentally appropriate practices and a written program of activities planned according to the developmental level of the children. The center shall post a schedule of the program in a visible place. The child care program shall complement but not duplicate the school curriculum. The program shall be designed to provide children with:

a. A curriculum or program of activities that supports development of self-esteem, self-regulation, positive social interactions, communication skills, curiosity, problem-solving, creative expression, and gross motor and fine motor development.

b. A balance of active and quiet activities, individual and group activities, indoor and outdoor activities, and staff-initiated and child-initiated activities.

c. Experiences in harmony with the ethnic and cultural backgrounds of the children.

d. A supervised nap or quiet time for all children under six years of age not enrolled in school who are present at the center for five or more hours.

109.12(2) Discipline. The center shall have a written policy that shall be provided to staff at the start of employment and to parents at the time of admission. The center shall not use as a form of discipline:

a. Corporal punishment, including spanking, shaking, and slapping.

b. Punishment that is humiliating or frightening or that causes pain to the child. Children shall never be locked in a room or closet.

c. When restraints are part of a treatment plan for a child with a disability authorized by the parent and a psychologist or psychiatrist, staff shall receive training on the safe and appropriate use of the restraint.

d. Punishment or threat of punishment associated with a child's illness, lack of progress in toilet training, or in connection with food or rest.

e. No child shall be subjected to verbal abuse, threats, or derogatory remarks about the child or the child's family.

109.12(3) Children requiring special accommodations. Reasonable accommodations, based on the special needs of the child, must be made in providing care to a child with a disability.

109.12(4) Infant environment.

a. An area shall be provided that is properly and safely equipped for the use of infants and free from the intrusion of children two years of age and older.

b. Each infant and toddler shall be diapered in a sanitary manner as frequently as needed at a central diapering area. Diapering, sanitation, and hand-washing procedures shall be posted and implemented in every diapering area. There shall be at least one changing table for every 15 infants.

c. Highchairs or hook-on seats shall be equipped with a safety strap that shall be engaged when the chair is in use and shall be constructed so the chair will not topple.

d. Safe, washable toys, large enough so they cannot be swallowed and with no removable parts, shall be provided. All hard-surface toys used by children shall be sanitized daily.

e. The provider shall follow safe sleep practices for infants under one year of age.

(1) Infants shall always be placed on their backs for sleep.

(2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission (August 1, 2024) and ASTM federal standards (August 1, 2024).

(3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface. No child shall be allowed to sleep in any item not designed for infant sleeping, including but not limited to an infant seat, car seat, swing, or bouncy seat.

(4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.

(5) No co-sleeping shall be allowed.

(6) Sleeping infants shall be actively observed by sight and sound.

(7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required and an expiration date.

f. A crib or crib-like furniture that has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and that meets the current standards or recommendations from the U.S. Consumer Product Safety Commission (August 1, 2024) or ASTM International (August 1, 2024) for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or crib-like furniture shall be provided for the number of children present at any one time. The center shall develop procedures for maintaining all cribs or crib-like furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

g. Infant walkers cannot be used.

h. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

441—109.13(237A) Food services. Centers participating in the USDA Child and Adult Care Food Program (CACFP) may have requirements that differ from those outlined in this rule in obtaining CACFP reimbursement and shall consult with a state CACFP consultant.

109.13(1) Nutritionally balanced meals or snacks. The center shall serve each child a full, nutritionally balanced meal or snack as defined by the CACFP guidelines (August 1, 2024) and shall ensure that staff provide supervision at the table during snacks and meals. Children remaining at the center two hours or longer shall be offered food at intervals of not less than two hours or more than three hours apart unless the child is asleep.

109.13(2) Menu planning. The center shall follow the minimum CACFP menu patterns for meals and snacks and serving sizes for children aged infant to 13 years (August 1, 2024). Menus shall be made available to parents and kept on file at the center. Substitutions in the menu, including substitutions made for infants, shall be noted and kept on file. Foods with a high incident rate of causing choking in young children should not be served per CACFP FNS-877 (August 1, 2024). Exceptions shall be allowed for special diets because of medical reasons in accordance with the child's needs and written instructions of a licensed physician or health care provider.

109.13(3) Feeding of children under two years of age.

a. All children under 12 months of age shall be fed on demand unless the parent provides other written instructions. Meals and snacks provided by the center shall follow the CACFP infant menu patterns (August 1, 2024). Foods shall be appropriate for the infant's nutritional requirements and eating abilities. Special formulas prescribed by a physician or health care provider shall be given to a child who has a feeding problem.

b. Bottles or containers of infant foods should be warmed under running, warm tap water or by placing them in a container of water that is no warmer than 120°F (49°C). Bottles and infant foods should never be warmed in a microwave oven.

c. All children under six months of age shall be held or placed in a sitting-up position sufficient to prevent aspiration during feeding. No bottles shall be propped for children of any age. A child shall not be placed in a crib or cot with a bottle or any other food item or left sleeping with a bottle or food item. Spoon feeding shall be adapted to the developmental capabilities of the child.

d. Single-service, ready-to-feed formulas, concentrated or powdered formula following the manufacturer's instructions or breast milk shall be used for children 12 months of age and younger unless otherwise ordered by a parent or physician.

e. Whole milk for children under two years of age who are not on formula or breast milk unless otherwise directed by a physician shall be used.

f. Cleaned and sanitized bottles and nipples shall be used for bottles prepared on site. Prepared bottles shall be kept under refrigeration when not in use.

109.13(4) Food brought from home.

a. The center shall establish policies regarding food brought from home for children under five years of age who are not enrolled in school. A copy of the written policy shall be given to the parent at admission. Food brought from home for children under five years of age who are not enrolled in school shall be monitored and supplemented if necessary to ensure CACFP guidelines (August 1, 2024) are maintained.

b. The center may not restrict a parent from providing meals brought from home for school-age children or apply nutritional standards to the meals.

c. Perishable foods brought from home shall be maintained to avoid contamination or spoilage.

d. Snacks that may not meet CACFP nutrition guidelines (August 1, 2024) may be provided by parents for special occasions such as birthdays or holidays.

109.13(5) Food preparation, storage, and sanitation. Centers shall ensure that food preparation and storage procedures are consistent with the recommendations of the CACFPs (August 1, 2024) and provide:

a. Sufficient refrigeration appropriate to the perishable food to prevent spoilage or the growth of bacteria.

b. Sanitary and safe methods in food preparation, serving, and storage sufficient to prevent the transmission of disease, infestation of insects and rodents, and the spoilage of food. Staff preparing food who have injuries on their hands shall wear protective gloves. Staff serving food shall have clean hands or wear protective gloves and use clean serving utensils.

c. Sanitary methods for dish-washing techniques sufficient to prevent the transmission of disease.

d. Sanitary methods for garbage disposal sufficient to prevent the transmission of disease and infestation of insects and rodents.

109.13(6) Water supply. The center shall ensure that suitable water and sanitary drinking facilities are available and accessible to children. Centers that serve infants and toddlers shall provide individual cups for drinking in addition to drinking fountains that may be available in the center.

a. Private water supplies shall be of satisfactory bacteriological quality as shown by an annual laboratory analysis. Water for the analysis shall be drawn between May 1 and June 30 of each year. When the center provides care for children under two years of age, a nitrate analysis shall also be obtained.

b. When public or private water supplies are determined unsuitable for drinking, commercially bottled water certified as chemically and bacteriologically potable or water treated through a process approved by the health department or designee shall be provided.

441—109.14(237A) Extended evening care. A center providing extended evening care between the hours of 9 p.m. and 5 a.m. shall comply with the licensing requirements for centers contained in Iowa Code chapter 237A and this chapter, with the additional requirements set forth below.

109.14(1) Facility requirements.

a. The center shall ensure that sufficient cribs, beds, cots and bedding are provided appropriate to the child's age and that sufficient furniture, lighting, and activity materials are available for the children. Equipment and materials shall be maintained in a safe and sanitary manner.

b. The center shall ensure that a separate space is maintained for school-age boys and girls to provide privacy during bathroom and bedtime activities. Bathroom doors used by children shall be nonlockable.

c. The center shall ensure that parents have provided the personal effects needed to meet their child's personal hygiene and prepare for sleep. The center shall supplement those items needed for personal hygiene that the parent does not provide. The center shall obtain written information from the parent regarding the child's snacking, toileting, personal hygiene and bedtime routines.

109.14(2) Activities.

a. Evening activities shall be primarily self-selected by the child.

b. Every child-occupied room except those rooms used only by school-age children for sleeping shall have adult supervision present in the room. Staff counted for purposes of meeting child-to-staff ratios shall be present and awake at all times. In rooms where only school-age children are sleeping, visual monitoring equipment may be used. If a visual monitor is used, the monitoring must allow for all children to be visible at all times. Staff shall be present in the room with the monitor and shall enter the room used for sleeping to conduct a check of the children every 15 minutes.

441—109.15(237A) School-based before- and after-school and summer programs. A building owned or leased by a school district or accredited nonpublic school that complies with rules adopted by the state fire marshal for school buildings is considered appropriate for use by a child care facility. Centers that operate in a school building shall comply with the licensing requirements for centers contained in Iowa Code chapter 237A and this chapter with the following considerations:

109.15(1) Infant-specific regulations outlined in paragraph 109.12(4) "e" and subrule 109.13(3) are not applicable.

109.15(2) Centers may receive limited exemption from a facility requirement at subrule 109.11(3), particularly relating to ventilation and bathroom facilities, if complying with the requirement would require a structural or mechanical change to the school building.

109.15(3) Centers shall ensure that the indoor and outdoor space occupied by the center is sanitary, safe, and hazard-free. Outdoor space used for recreation during the school day is sufficient for use by the child care program.

109.15(4) Centers that serve only school-age children and that operate in a school building are exempted from testing for lead and carbon monoxide.

109.15(5) Personnel. For director requirements set forth in subrule 109.6(1), for centers serving predominantly school-age children, the directors may substitute a degree in secondary education, physical education, recreation or related fields for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, child-related experience working with school-age children shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

109.15(6) Child's file. All requirements under subrule 109.9(2) must be followed. For a center serving school-age children that operates in the same school facility in which the child attends school, documentation, including certificates of immunization, certificates of immunization exemption, or provisional certificates of immunization, shall be submitted to both locations in accordance with 641—Chapter 7.

441—109.16(237A) Get-well center. A get-well center shall comply with the licensing requirements for centers contained in Iowa Code chapter 237A and this chapter with the additional requirements and exceptions set forth below.

109.16(1) Staff requirements.

a. The center shall have a medical advisor for the center's health policy. The medical advisor shall be a medical doctor or a doctor of osteopathy currently in pediatrics or family practice.

b. A center shall have a licensed LPN or RN on duty at all times that children are present. If the nurse on duty is an LPN, the medical advisor or an RN shall be available in the proximate area as defined in rule 655—6.3(152).

109.16(2) Health policies.

a. The center shall have a written health policy, consistent with the National Health and Safety Performance Standards (August 1, 2024), approved and signed by the owner or the chair of the board and by the medical advisor before the center can begin operations. Changes in the health policy shall be approved by the medical advisor and submitted in writing to the department. A written summary of the health policy shall be given to the parent when a child is enrolled in the center. The center's health policy at a minimum shall address procedures in the following areas:

(1) Medical consultation, medical emergencies, triage policies, storage and administration of medications, dietary considerations, sanitation and infection control, categorization of illness, length of enrollment periods, exclusion policy, and employee health policy.

(2) Reportable disease policies as required by the department.

b. The child shall be given a brief evaluation by an LPN or RN upon each arrival at the center.

c. The parent shall receive a brief written summary when the child is picked up at the end of the day. The summary must include:

(1) Admitting symptoms.

(2) Medications administered and time they were administered.

(3) Nutritional intake.

(4) Rest periods.

(5) Output.

(6) Temperature.

109.16(3) Exceptions. The following exceptions to this chapter shall be applied to get-well centers:

a. A center shall maintain a minimum staff ratio of one-to-four for infants and one-to-five for children over two years of age.

b. All staff who have contact with children shall have a minimum of ten clock hours of special training in caring for mildly ill children.

c. There shall be 40 square feet of program space per child.

d. Outdoor space may be waived with the approval of the department if the program is in an area adjacent to the pediatrics unit of a hospital.

e. Grouping of children shall be allowed by categorization of illness or by transmission route without regard to age and shall be in separate rooms with full walls and doors.

These rules are intended to implement Iowa Code section 232.69 and chapter 237A.

[Filed 2/26/25, effective 7/1/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9022C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rulemaking related to health care employment agencies and health care technology platforms

The Department of Inspections, Appeals, and Licensing hereby amends Chapter 55, "Health Care Employment Agencies," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 135Q as amended by 2023 Iowa Acts, chapter 131 (House File 357), and 2024 Iowa Acts, chapter 1157 (House File 2698), sections 63 through 67; 2023 Iowa Acts, chapter 16 (Senate File 75); and Executive Order 10.

Purpose and Summary

This rulemaking amends Chapter 55 and implements Iowa Code chapter 135Q as amended by 2023 Iowa Acts, House File 357, and 2024 Iowa Acts, House File 2698, sections 63 through 67, in accordance with the goals and directives of Executive Order 10. This rulemaking removes the definition of “direct services” and amends the definition of “health care employment agency” in accordance with 2023 Iowa Acts, House File 357. Additionally, the rulemaking adds provisions regarding health care technology platforms to Chapter 55 in accordance with 2024 Iowa Acts, House File 2698, sections 63 through 67. The rulemaking also revises references to ambulatory surgical centers in the definition of “health care entity” to account for new state licensing standards established by 2023 Iowa Acts, Senate File 75. Finally, this rulemaking updates the Department’s contact information and references now-codified legislation.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on April 17, 2024, as **ARC 7784C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8214C**.

The Department received written comments from LeadingAge Iowa (LAI), which is, as described by LAI, “a statewide association representing not-for-profit long term care and aging services providers.” LAI’s comments focused on health care employment agencies (HCEAs), alleging “predatory practices” and “excessive price gouging” by the HCEA industry and encouraging Iowa to continue monitoring and regulating HCEAs. As for the proposed rulemaking, LAI stated it was supportive of the rules and did not suggest any changes. No changes were made from the proposed rules in light of LAI’s comments.

The Department also received written comments from and had multiple remote meetings with representatives of ShiftKey, LLC (ShiftKey), a health care technology platform (HCTP). ShiftKey’s various comments were generally focused on maintaining the distinction between HCEAs and their agency workers on one hand and HCTPs and the independent nursing services professionals who utilize HCTPs on the other hand.

No additional comments were received in response to the proposed rulemaking.

Minor changes from the published Amended Notice have been made in response to ShiftKey’s comments. For example, in subrule 55.3(1), changes were made to mirror the distinction (found in Iowa Code chapter 135Q) of HCEAs “ensuring” and HCTPs “verifying” qualifications (more information in Iowa Code sections 135Q.2(2)“a” and 135Q.3(2)). Additionally, references to deactivation of accounts were added to paragraph 55.3(2)“c” because HCTPs do not “terminate” independent nursing services professionals but instead deactivate their accounts.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 31, 2025.

Fiscal Impact

After analysis and review of this rulemaking, the Department does not anticipate expenditures requiring a fiscal impact statement. Expenditures by affected persons associated with registration requirements, including additional costs to the Department to implement this rulemaking, are not anticipated to exceed the amounts set forth in Iowa Code section 17A.4(4).

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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend **481—Chapter 55**, title, as follows:

**HEALTH CARE EMPLOYMENT AGENCIES
AND HEALTH CARE TECHNOLOGY PLATFORMS**

ITEM 2. Amend rule 481—55.1(89GA,HF2521) as follows:

481—55.1(89GA,HF2521 135Q) Definitions. The definitions set forth in Iowa Code section 135Q.1 as enacted by 2022 Iowa Acts, House File 2521, are incorporated herein by reference. As used in this chapter, unless the context otherwise requires, the following terms also apply:

~~“Direct services” includes services performed by registered nurses, licensed practical nurses, certified nurse aides, certified medication aides, and medication managers. “Direct services” does not include the practice of medicine and surgery or osteopathic medicine and surgery by an individual licensed under Iowa Code chapter 148 or 148C or the practice of nursing by an advanced registered nurse practitioner or an advanced practice registered nurse licensed under Iowa Code chapter 152 or 152E. For purposes of this chapter, janitorial, housekeeping, laundry, and meal preparation services are not considered direct services.~~

~~“Health care employment agency” does not include a recruitment firm that contracts with a health care entity to identify and screen potential candidates for hire and does not provide agency workers for temporary, or temporary-to-hire, direct hire, or other contract or employee placements in this state. “Health care employment agency” does not include a group of physical therapists licensed under Iowa Code chapter 148A, occupational therapists licensed under Iowa Code chapter 148B, or speech pathologists or audiologists licensed under Iowa Code chapter 154F providing services to a health care entity.~~

~~“Health care entity” includes, but is not limited to, any entities licensed or certified pursuant to Iowa Code chapters chapter 135B (hospitals), 135C (health care facilities), 135G (subacute mental health care facilities), 135H (psychiatric medical institutions for children), 135J (licensed hospice programs), 231C (assisted living programs), and 231D (adult day services), or any ambulatory surgical center, 135R (ambulatory surgical centers) or any home health agency, hospice, end-stage renal disease center, rural health clinic, or federally qualified health care center certified by the Centers for Medicare and Medicaid Services.~~

ITEM 3. Amend rule 481—55.2(89GA,HF2521) as follows:

481—55.2(89GA, HF2521 135Q) Health care employment agency registration Registration.

55.2(1) A health care employment agency or health care technology platform operating in the state shall ~~file a statement of registration and pay a registration fee in accordance with Iowa Code section 135Q.2(1) as enacted by 2022 Iowa Acts, House File 2521~~ register annually with the department and pay an annual registration fee of \$500. A health care employment agency with multiple locations may complete one registration containing the information required in subrule 55.2(3) for each location all locations and may remit one payment for the total registration fee required. A health care employment agency or health care technology platform shall register with the department 30 days prior to operation. A health care technology platform in operation prior to April 23, 2025, shall register with the department within 30 days of April 23, 2025.

~~a. A health care employment agency in operation prior to July 1, 2022, shall register with the department no later than January 4, 2023.~~

~~b. A health care employment agency in operation on or after July 1, 2022, shall register with the department 30 days prior to operation.~~

55.2(2) The statement of registration may be submitted electronically via an Internet-based system provided by the department for such purpose; by mail to the Department of Inspections, ~~and Appeals, and Licensing, Health Facilities and Safety Division, Lucas State Office Building, Third Floor, 321 E. 12th Street 6200 Park Avenue, Suite 100, Des Moines, Iowa 50319-0083~~ 50321; or by fax to ~~(515)242-5022~~ 515.242.5022.

55.2(3) No change.

55.2(4) The health care employment agency or health care technology platform shall notify the department of any changes to the information on the annual statement of registration within 30 days of the date the change occurs, including cessation of operation. ~~Changes shall be submitted in the manner described in subrule 55.2(2).~~

~~**55.2(5)** The department shall issue each location a separate certification of registration upon approval of registration and payment of the fee.~~

ITEM 4. Amend rule 481—55.3(89GA, HF2521) as follows:

481—55.3(89GA, HF2521 135Q) General requirements. A health care employment agency or health care technology platform shall adhere to all requirements under Iowa Code section 135Q.2(2) ~~as enacted by 2022 Iowa Acts, House File 2521, or 135Q.3(2), as applicable, and do all of the following:~~

55.3(1) *Verification of employment standards.* A health care employment agency shall ensure that its agency workers comply with all applicable state and federal requirements ~~under and qualifications for personnel in health care entity settings pursuant to Iowa Code sections section 135Q.2(2) “a” through “e” as enacted by 2022 Iowa Acts, House File 2521, including but not limited to the following: “c.”~~ A health care technology platform shall verify that independent nursing services professionals supply documentation demonstrating compliance with all applicable state and federal requirements and qualifications for personnel in health care entity settings pursuant to Iowa Code section 135Q.3(2) “a” through “c.” These include but are not limited to a health care employment agency ensuring or a health care technology platform verifying the following:

~~a. The health care employment agency shall ensure completion~~ Completion of all requirements regarding criminal, dependent adult abuse, and child abuse record checks that would otherwise be the responsibility of the health care entity if the health care entity employed the agency worker or contracted with the independent nursing services professional directly;

~~b. The health care employment agency shall ensure completion~~ Completion of the physical examination and screening and testing for tuberculosis procedures that would otherwise be the responsibility of the health care entity if the health care entity employed the agency worker or contracted with the independent nursing services professional directly; and

~~c. The health care employment agency shall ensure that~~ That an agency worker or independent nursing services professional has completed all education, training, and continuing education requirements for the agency worker's or independent nursing services professional's occupation and that the agency worker or independent nursing services professional is in good standing with any minimum

licensing or certification standards to appropriately engage in the ~~workers'~~ worker's or professional's profession.

55.3(2) *Allegations of dependent adult abuse.*

a. If ~~a health care employment agency receives~~ an allegation of dependent adult abuse is received by a health care employment agency against an agency worker or is received by a health care technology platform against an independent nursing services professional, the health care employment agency or health care technology platform shall immediately notify the facility in which the alleged abuse occurred so that the facility may immediately separate the victim and alleged dependent adult abuser. The health care employment agency or health care technology platform shall also notify the department within 24 hours or the next business day. If the health care employment agency or health care technology platform has reason to believe that immediate protection for the dependent adult is advisable, ~~the health care employment agency~~ it should also make an oral report to an appropriate law enforcement agency. After receiving notice of an allegation of dependent adult abuse against an agency worker or independent nursing services professional and before the department's dependent adult abuse investigation is completed and the abuse determination is made, the health care employment agency or health care technology platform shall disclose such investigation to any prospective health care entity with which the agency worker will be placed or the independent nursing services professional will provide services.

b. In addition to any other requirement under state or federal law with respect to the receipt of an allegation of dependent adult abuse, if a health care entity receives an allegation of dependent adult abuse against an agency worker or independent nursing services professional, the health care ~~employment agency~~ entity shall immediately notify the health care employment agency or health care technology platform of the allegation. This does not ~~except~~ exempt the health care entity from any of its duties with respect to alleged dependent adult abuse under state or federal law.

c. If the health care employment agency or health care technology platform terminates the alleged dependent adult abuser or deactivates the alleged abuser's account as a result of the investigation or the alleged dependent adult abuser resigns, the alleged dependent adult abuser shall disclose such termination, deactivation, or investigation to any prospective facility or program employer.

ITEM 5. Amend rule 481—55.4(89GA, HF2521) as follows:

481—55.4(89GA, HF2521 135Q) Prohibitions.

55.4(1) A health care employment agency or health care technology platform shall not restrict the employment opportunities of an agency worker or independent nursing services professional in accordance with Iowa Code section 135Q.2(3) ~~as enacted by 2022 Iowa Acts, House File 2521 or 135Q.3(3), as applicable.~~

55.4(2) Subrule 55.4(1) ~~shall~~ does not apply to a contract ~~between a health care employment agency and a health care entity or a health care employment agency worker~~ that meets all of the following criteria: set forth in Iowa Code section 135Q.2(3) "b."

a. ~~The contract is for the purpose of placing an agency worker the health care employment agency assisted in obtaining authorization to work in the United States;~~

b. ~~The contract contains an initial contract term of no less than 24 months and has a total duration, including any renewals or extensions, of no longer than 36 months; and~~

c. ~~The contract requires the agency worker to work at a single health care entity for the duration of the contract.~~

ITEM 6. Amend rule 481—55.5(89GA, HF2521) as follows:

481—55.5(89GA, HF2521 135Q) Record retention and reporting.

55.5(1) *Document retention.* A health care employment agency or health care technology platform shall maintain documentation in its files regarding each agency worker's or independent nursing services professional's compliance, as applicable, with the minimum licensing, certification, training, health requirements, and continuing education standards as described in subrule 55.3(1). A health care employment agency or health care technology platform shall provide copies of this documentation to the

department or a health care entity for a contracted agency worker or independent nursing services professional upon request.

55.5(2) *External reporting.* A health care employment agency shall report, file, or otherwise provide any required documentation pursuant to Iowa Code section 135Q.2(2) "c." ~~as enacted by 2022 Iowa Acts, House File 2521,~~ including, but not limited to:

- a. No change.
- b. The health care employment agency shall report allegations of dependent adult abuse as set forth in subrule ~~55.3(3)~~ 55.3(2).

55.5(3) *Quarterly reporting to the department.*

a. The quarterly report required ~~by~~ to be submitted by a health care employment agency pursuant to Iowa Code section 135Q.2(4) ~~as enacted by 2022 Iowa Acts, House File 2521,~~ shall provide the following:

- (1) to (3) No change.
- b. The report data and submission dates shall be as follows:
 - (1) The quarterly report containing data from January 1 through March 31 ~~shall be submitted~~ is due no later than April 15;
 - (2) The quarterly report containing data from April 1 through June 30 ~~shall be submitted~~ is due no later than July 15;
 - (3) The quarterly report containing data from July 1 through September 30 ~~shall be submitted~~ is due no later than October 15; and
 - (4) The quarterly report containing data from October 1 through December 31 ~~shall be submitted~~ is due no later than January 15.

ITEM 7. Amend rule 481—55.6(89GA,HF2521) as follows:

481—55.6(89GA,HF2521 135Q) Complaints.

55.6(1) *Complaints.*

- a. The process for filing a complaint is as follows:
 - (1) Any person with a concern regarding the operation of a health care employment agency may file a complaint at the department's physical location, complaint hotline, or website, as follows:

Physical address:	Department of Inspections, ~~and Appeals, and Licensing~~ <u>Health and Safety Division</u> , Complaint/Incident Unit Lucas State Office Building, Third Floor <u>6200 Park Avenue, Suite 100</u> 321 E. 12th Street Des Moines, Iowa 50319-0083 <u>50321</u>
Complaint hotline:	<u>1-877-686-0027 1.877.686.0027</u>
Website address:	<u>dia.iowa.gov dial.iowa.gov</u>

(2) When the nature of the complaint is outside the department's authority, the department ~~shall~~ will forward the complaint to the appropriate investigatory entity.

~~(3) If other state agencies receive a complaint that relates to a health care employment agency, the agencies shall forward the complaint to the department.~~

b. The department ~~shall~~ will act on anonymous complaints unless the department determines that the complaint is intended to harass the health care employment agency or health care technology platform or is without a reasonable basis. If the department, upon preliminary investigation, determines that the complaint is intended to harass or is without a reasonable basis, the department may dismiss the complaint.

55.6(2) *Content of complaint reports.* The complaint ~~shall~~ should include as much of the following information as possible: the complainant's name, address, and telephone number; the complainant's relationship to the health care employment agency or health care technology platform; and the reason for the complaint. The complainant's name shall be confidential information and ~~shall~~ will not be released by the department.

55.6(3) *Time frames for investigation of complaints.* Upon receipt of a complaint made in accordance with this rule, the department ~~shall~~ will make a preliminary investigation of the complaint to determine if probable cause exists to further investigate the complaint. If probable cause exists, an investigation of the health care employment agency ~~shall~~ or health care technology platform will be initiated within 45 working days.

55.6(4) *Standard for determining whether a complaint is substantiated.* The department ~~shall~~ will apply a preponderance of the evidence standard in determining whether a complaint is substantiated.

55.6(5) *Notification of the health care employment agency or ~~alleged health care employment agency~~ health care technology platform of results of investigation.* The department ~~shall~~ will notify the subject health care employment agency or ~~alleged health care employment agency~~ health care technology platform, in writing, of the final report of the complaint investigation.

55.6(6) *Notification of the complainant of results of investigation.* The complainant, if known, ~~shall~~ will be notified of the final findings of a complaint investigation. ~~The complainant, if known, shall also be notified as well as~~ if the department determines not to further investigate after the preliminary investigation ~~and shall receive, including~~ an explanation of the department's decision.

ITEM 8. Amend rule 481—55.7(89GA,HF2521) as follows:

481—55.7(89GA,HF2521 135Q) Investigations.

55.7(1) *Initiation of investigations.* Investigations may be initiated because of a complaint or other information received by the department or upon referral from other agencies. If the department determines there is probable cause to believe that a health care employment agency or health care technology platform is an unregistered ~~health care employment agency~~ or that a registered health care employment agency or health care technology platform is not in compliance with state, federal, or local statutes or rules, an investigation ~~shall~~ may be initiated.

55.7(2) *Evaluation of allegations and referral to other agencies.* If an investigation is initiated, the department ~~shall~~ will evaluate the allegations to determine whether the allegations should also be referred to other local, state, or federal agencies. If the department believes a criminal violation has occurred or is occurring, it ~~shall~~ will notify the appropriate law enforcement entities.

55.7(3) *Access to records.* An inspector of the department may enter a health care employment agency without a warrant and may examine and copy all records and items pertaining to the investigation, or may require the health care employment agency or health care technology platform to provide copies of all records and items pertaining to the investigation, unless the record or item is protected by some other legal privilege.

ITEM 9. Amend rule 481—55.8(89GA,HF2521) as follows:

481—55.8(89GA,HF2521 135Q) Penalties. ~~A health care employment agency that violates Iowa Code sections 135Q.2(1) through 135Q.2(3) as enacted by 2022 Iowa Acts, House File 2521, or rule 481—55.3(89GA,HF2521) shall be subject to the associated penalties under Iowa Code section 135Q.2(5) as enacted by 2022 Iowa Acts, House File 2521. A health care employment agency or health care technology platform that violates Iowa Code chapter 135Q will be subject to monetary penalties, denial or revocation of registration, and other penalties as described in Iowa Code section 135Q.4.~~

ITEM 10. Amend rule 481—55.9(89GA,HF2521) as follows:

481—55.9(89GA,HF2521 135Q) Public and confidential information.

55.9(1) *Public disclosure.* The following records are open and available for inspection:

- Registration forms and accompanying materials;
- Final findings of the department's investigations;
- Official notices of penalties; and
- Any records required to be submitted to the department by the health care employment agency pursuant to Iowa Code section 135Q.2(4) ~~as enacted by 2022 Iowa Acts, House File 2521,~~ and subrule 55.5(3) (quarterly reporting to the department).

55.9(2) No change.

~~**55.9(3)**—Redaction of confidential information. If a record normally open for inspection contains confidential information, the confidential information shall be redacted prior to an agency's providing the record for inspection.~~

ITEM 11. Amend ~~481~~—**Chapter 55**, implementation sentence, as follows:

These rules are intended to implement ~~2022 Iowa Acts, House File 2524~~ Iowa Code chapter 135Q.

[Filed 2/25/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9023C

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Rulemaking related to description of organization

The Interior Design Examining Board hereby rescinds Chapter 1, "Description of Organization," 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 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Chapter 1 provides basic information on the structure and function of the Board, which benefits the public and registrants by informing them about the organization and administration of the Board.

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 8547C**.

A public hearing was held on the following date(s):

- January 28, 2025
- January 30, 2025

No one attended the hearings, and no public comment was received. One change from the Notice has been made in the adopted amendment to capitalize a proper noun, Council for Interior Design Qualification, in the definitions.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 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 of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 193G—Chapter 1 and adopt the following new chapter in lieu thereof:

CHAPTER 1
DESCRIPTION OF ORGANIZATION

193G—1.1(544C,17A) Definitions. As used in these rules, the following definitions of words and terms apply:

“*Board*” means the same as in Iowa Code section 544C.1(1).

“*CIDQ*” means the Council for Interior Design Qualification.

“*Department*” means the same as in Iowa Code section 544C.1(4).

“*Registered interior design*” means the same as in Iowa Code section 544C.1(9).

“*Registered interior designer*” means the same as in Iowa Code section 544C.1(10).

193G—1.2(544C) Description.

1.2(1) The purpose of the board is to administer and enforce the provisions of Iowa Code chapter 544C. The board has promulgated these rules to clarify the board's intent and procedures.

1.2(2) The primary mission of the board is to protect the public interest. All board rules are construed as fostering the guiding policies and principles described in Iowa Code chapter 544C.

193G—1.3(544C,17A) Organization and duties. The board elects annually from its members a chairperson and a vice-chairperson. A quorum of the board is four members, and all final motions and actions must receive a majority vote. The board enforces the provisions of Iowa Code chapter 544C and maintains a roster of all registered interior designers in the state.

1.3(1) Chairperson. The chairperson, when present, presides at the meetings, appoints committees, and exercises all duties and powers of the chairperson.

1.3(2) Vice chairperson. The vice chairperson, in the absence or incapacity of the chairperson, exercises the duties and powers of the chairperson.

193G—1.4(544C,17A) Meetings. Calls for meetings are issued in accordance with Iowa Code section 21.4. The first meeting scheduled after April 30 is the annual meeting. The chairperson and vice chairperson are elected at the annual meeting. The chairperson and vice chairperson serve one-year terms. The newly elected officers assume the duties of their respective offices at the conclusion of the meeting at which they are elected.

193G—1.5(544C) Other meetings. In addition to the annual meeting and any subsequent meetings, the time and place of which may be fixed by vote of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

193G—1.6(544C) Administrative committees. The board chairperson may appoint administrative committees of members of the board for the purpose of making recommendations on matters specified by the board.

193G—1.7(544C,17A) Waivers. Persons who wish to seek waivers from board rules should consult the uniform rules for the department at 481—Chapter 6.

These rules are intended to implement Iowa Code chapters 17A, 21, 22, 252J, 261, 272C and 544C.

[Filed 2/24/25, effective 4/23/25]

[Published 3/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9024C

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Rulemaking related to registration

The Interior Design Examining Board hereby rescinds Chapter 2, “Registration,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Chapter 2 establishes the minimum standards for interior design registration. The public, registrants, and applicants benefit from the chapter because it articulates the processes by which individuals apply for registration as directed in statute. This includes the processes for initial registration, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual who holds a registration has minimum competency. Requirements include the application process, minimum educational and training qualifications, and examinations.

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 8549C**.

A public hearing was held on the following date(s):

- January 28, 2025
- January 30, 2025

No one attended the hearings and no public comment was received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 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 of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 193G—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
REGISTRATION

193G—2.1(544C) Certificate of registration. All applicants for registration will complete a board-approved application and satisfy the interior design education, practical training, examination, and fee requirements established by this rule.

2.1(1) Education and practical training. An applicant for registration shall meet the education and training requirements set forth in Iowa Code section 544C.5.

2.1(2) Examination. An applicant for registration will verify successful completion of the National Council for Interior Design Qualification examination or its equivalent.

2.1(3) Reciprocity. The board may also grant registration by reciprocity as provided in Iowa Code section 544C.6.

2.1(4) Military service and veteran reciprocity. The board may grant registration for military service applicants, spouses, and veterans as provided for in 481—Chapter 7.

2.1(5) Registration by verification. The board may grant registration via verification as provided for in 193—Chapter 14.

193G—2.2(17A,272C,544C) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. Certificates issued to registrants with last names beginning with A through K expire on June 30 of even-numbered years and certificates issued to registrants with last names beginning with L through Z expire on June 30 of odd-numbered years. However, a registration issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a license issued on May 17, 2020, would not expire until June 30, 2022. A registrant who fails to renew by the expiration date is not authorized to use the title of registered interior designer in Iowa until the certificate is reinstated as provided in rule 193G—2.3(544C,17A).

2.2(1) It is the policy of the board to send to each registrant a notice of the pending expiration date. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee.

2.2(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education provisions required as a condition for registration. If the basis for denial is a pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.2(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under rule 193G—3.3(17A,544C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours. The consent order may impose additional educational requirements on the registrant. Any additional hours of continuing education completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not fulfilled. If the offer of settlement is rejected, the matter will be set for hearing if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.2(4) A registrant who continues to use the title of registered interior designer in Iowa after the registration has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.2(5) Registrants shall notify the board within 30 days of any change of address or business.

193G—2.3(544A,17A,272C) Grounds for denial of registration renewal. Failure of a registrant to complete the continuing education requirements as set forth in 193—Chapter 3, failure to file a report of completed continuing education, or failure to submit a written request for waiver or exemption shall be grounds for the board to deny renewal of the registration.

193G—2.4(544A,17A) Reinstatement of certificates of registration. An individual may reinstate a lapsed certificate of registration to active registration by doing the following:

1. Paying the current renewal fee;
2. Paying the reinstatement fee of \$100;
3. Providing a written statement outlining the professional activities that the applicant performed in Iowa during the period of nonregistration, including a list of all projects with which the applicant had involvement and explaining the service provided by the applicant; and
4. Submitting documented evidence of completion of 10 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 5 continuing education hours for each year or portion of a year of expired registration up to a maximum of 20 continuing education hours. All continuing education hours are to be completed in health, safety, and welfare subjects; be acquired in structured educational activities; and be in compliance with requirements in 193G—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal and may not have been earned more than four years prior to the date of the application to reinstate.

193G—2.5(544A) Applications.

2.5(1) The interior designer is responsible for verifying the accuracy of the information submitted on applications regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an interior designer's firm submits an application for renewal on behalf of the interior designer and that information is incorrect, the interior designer will be held responsible for the information and may be subject to disciplinary action.

2.5(2) Persons applying for initial, renewal, or reciprocal registration will submit an application on a form provided by the board and pay a registration fee of \$275. An applicant applying for initial, reciprocal, or reinstatement registration within 12 months from the applicant's renewal date pays half of the required fee. An applicant applying for initial, reciprocal, or reinstatement registration 12 months or more from the applicant's renewal date pays the full registration fee.

2.5(3) Fee schedule.

Type of fee	Amount
Registration fee	\$275
Renewal	\$275
Reinstatement of lapsed registration	\$100
License predetermination fee	\$25
Dishonored check, draft, order or other payment failure	\$30

All fees are nonrefundable.

These rules are intended to implement Iowa Code chapter 544C.

[Filed 2/24/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9025C**INTERIOR DESIGN EXAMINING BOARD[193G]****Adopted and Filed****Rulemaking related to continuing education**

The Interior Design Examining Board hereby rescinds Chapter 3, "Continuing Education," 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 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Chapter 3 sets forth continuing education requirements for registered interior designers to ensure continuing competency. The chapter includes definitions related to continuing education, the number of hours of continuing education that registrants are required to obtain, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that registered interior designers maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

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 8550C**.

A public hearing was held on the following date(s):

- January 28, 2025
- January 30, 2025

No one attended the hearings and no public comment was received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 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 of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 193G—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
CONTINUING EDUCATION

193G—3.1(17A,272C,544C) Definitions. As used in these rules, the following definitions apply:

“*Contact hour*” means one 60-minute clock hour of educational activity of which at least 50 minutes are devoted to instructional content. Where other units of credit are stated for an educational experience (e.g., continuing education units (CEUs)), they will be credited in terms of actual contact hours.

“*Distance education*” means any education process based on the geographical separation of student and instructor.

“*Health, safety and welfare subjects*” or “*HSW subjects*” means subjects that relate to the planning and designing of spaces and elements to minimize the risk of injury to persons or property. Such subjects include compliance with applicable building and safety codes, the planning and designing of spaces and elements that optimize over time the physically and mentally healthful use of those spaces and elements, and the planning and designing of spaces and elements that are durable, maintainable, cost-effective,

environmentally conscientious and conservative of resources; that function properly in all relevant respects; that encourage access, functional independence and use by all relevant populations; that encourage user satisfaction, including aesthetic appeal; that promote a sense of user confidence and peace of mind; that integrate effectively with the surrounding environment; and that, in other similar ways, enhance the health, safety and well-being of the public.

“Structured activity” means a method of interior design-related learning led by a qualified individual and conducted or sponsored by a professional organization, technical organization, industry source or accredited college or university taught in person or through distance education.

193G—3.2(17A,272C,544C) Continuing education requirements.

3.2(1) Hours required. Completion of a minimum of ten contact hours in acceptable health, safety and welfare subjects satisfies the continuing education necessary for biennial registration renewal. All hours shall be in structured activity programs and must be acquired during the renewal period. A registrant may carry over up to five contact hours of continuing education credit obtained in excess of the requirements for a renewal period to the following renewal period.

3.2(2) Continuing education hours may be acquired in any state, provided that the registrant can demonstrate that the program meets the definition of structured activity as defined in this chapter.

3.2(3) A registered interior designer who holds a registration in Iowa for less than 12 months from the date of initial registration is not required to report continuing education at the first registration renewal. A registered interior designer who holds a registration in Iowa for 12 months or more, but less than 24 months from the date of initial registration, will report five contact hours of HSW subjects in a structured activity, earned in the preceding 12 months, at the first registration renewal.

3.2(4) Sources of continuing education. Credit may not be claimed for any activity required as part of a registered interior designer’s routine professional responsibilities. Structured activities include the following:

- a.* Completion of any program or course sponsored by a professional or technical organization or industry source.
- b.* Instruction of a course, seminar, lecture, presentation, workshop, webinar or similar formal educational program. Credit is allowed at a maximum of three preparation hours for each class hour spent for actual presentation, valid for the initial presentation only. College and university faculty may not claim contact or preparation credit for teaching regular curriculum courses.
- c.* Research that is formally presented to the profession or public. Credit is allowed at a maximum of four contact hours per reporting period and shall be valid for the initial presentation only.
- d.* Completion of college or university credit courses dealing with interior-design-related subjects. Each semester hour equals 15 contact hours. A quarter hour equals ten contact hours.

3.2(5) Approved continuing education. The board does not preapprove continuing education activities or courses; however, acceptable HSW subjects that enhance the health, safety, and well-being of the public include the following topics:

- a.* Life safety, ADA, and other building and safety codes, standards and administrative regulations governing the practice of interior design.
- b.* Safety and security.
- c.* Physical and mental health issues.
- d.* Topics that relate to human physiology, perception, anthropometrics, ergonomics, psychology, sociology, ecology and cultural factors.
- e.* Energy efficiency.
- f.* Environmental issues.
- g.* Accessibility and universal design.
- h.* Materials and methods.
- i.* Building systems.
- j.* Statutes and rules relating to interior design regulation.
- k.* Professional ethics.
- l.* Legal aspects of professional practice.

- m.* Construction documents and services.
- n.* Project administration.

193G—3.3(17A,272C,544C) Controls and reporting.

3.3(1) An applicant for registration renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing education in which the registrant has participated.

a. When an applicant is requested to provide a listing of the continuing education completed for structured activities, the information will include the following:

- (1) The school, firm or organization conducting the course.
- (2) The location of the course.
- (3) The title of the course or a description of the course content.
- (4) The name of the principal instructor.
- (5) The dates attended.
- (6) The hours claimed.

b. Reserved.

3.3(2) The board may verify information submitted by registrants. If an application for renewal is not approved, the applicant will be notified and may be granted a period of time by the board in which to correct the deficiencies noted. Any discrepancy between the number of CEUs reported and the number of CEUs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEUs, or the registrant has failed to complete the required CEUs, the interior designer has 60 days from notification by the board to either provide further evidence of having completed the CEUs disallowed or remedy the discrepancy by completing the required number of CEUs (provided that such CEUs shall not again be used for the next renewal). An extension of time may be granted on an individual basis if requested by the registrant within 30 days of notification by the board. If the registrant fails to comply with the requirements of this subrule, the registrant may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the interior designer willfully disregarded these requirements or falsified documentation of required CEUs, the interior designer may be subject to disciplinary action.

3.3(3) The registrant is responsible for maintaining verification of claimed credit for a minimum of five years subsequent to submission of the report to the board office. Acceptable verification may be presented with a course completion certificate or a college transcript.

193G—3.4(17A,544C) Exemptions.

3.4(1) As provided in Iowa Code section 272C.2(4), a registered interior designer is deemed to have complied with the continuing education requirements set forth in this chapter if during the continuing education compliance period the registrant:

- a.* Has served honorably on active duty in the military service; or
- b.* Is a resident of another state or district having a continuing education requirement for registered interior design and has complied with all requirements of that state or district for practice therein; or
- c.* Is a government employee working as a registered interior designer outside the United States.

3.4(2) The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See 193—Chapter 5.

These rules are intended to implement Iowa Code chapter 544C.

[Filed 2/24/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9026C**INTERIOR DESIGN EXAMINING BOARD[193G]****Adopted and Filed****Rulemaking related to grounds for discipline,
disciplinary investigations, and disciplinary proceedings**

The Interior Design Examining Board hereby rescinds Chapter 5, “Disciplinary Authority and Grounds for Discipline,” and adopts a new Chapter 5, “Grounds for Discipline, Disciplinary Investigations, and Disciplinary Proceedings,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

Chapter 5 provides Iowans, registrants, and their employers with information about the disciplinary process and possible actions against registered interior designers. The public knows that the Board can impose discipline for violations of the Board’s rules. The public has the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the registrant, ensuring that the public is protected.

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 8554C**.

A public hearing was held on the following date(s):

- January 28, 2025
- January 30, 2025

No one attended the hearings and no public comment was received. One change from the Notice has been made, updating civil penalties language for consistency across all boards.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 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 of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 193G—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
GROUNDS FOR DISCIPLINE, DISCIPLINARY INVESTIGATIONS,
AND DISCIPLINARY PROCEEDINGS

193G—5.1(17A,272C,544C) Grounds for discipline. The board may initiate disciplinary action against a registered interior designer on any of the following grounds:

1. A violation of any of the rules of professional conduct set forth in 193G—Chapter 4.
2. A violation of Iowa Code section 272C.9(2) or 272C.9(3).
3. Failure to comply with an order of the board imposing discipline.
4. Continuing to practice as a registered interior designer without satisfying the continuing education requirement, absent express waiver granted by the board.
5. Failure to fully cooperate with a registrant disciplinary investigation or investigation against a nonregistrant, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's last address on file at the board office.
6. A violation of Iowa Code section 544C.9 or 272C.10.

193G—5.2(17A,272C,544C) Initiation of disciplinary investigations. The board may initiate a registrant disciplinary investigation upon the board's receipt of information suggesting that a registrant may have violated a law or rule enforced by the board which violation, if true, would constitute grounds for registrant discipline. The board may also review the publicly available work product of a registrant on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

193G—5.3(17A,272C,544C) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193G—5.4(272C,544C) Complaints. Written complaints may be submitted to the board office by mail, email, website portal, or personal delivery.

5.4(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board that are available from the board's website. Written complaints should include as much of the following information as possible:

- a. The full name, address and telephone number of the complainant (person filing the complaint).
- b. The full name, address and telephone number of the respondent (registrant against whom the complaint is filed).

c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions that the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.

d. If known, citations to the laws or rules allegedly violated by the respondent.

e. Evidentiary supporting documentation.

f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

5.4(2) Immunity. As provided by Iowa Code section 272C.8, a person will not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor will an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

5.4(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding that may be initiated by the board based in whole or in part on information provided by the complainant.

5.4(4) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate registrant discipline to be imposed, if any.

5.4(5) Initial complaint screening. All written complaints received by the board are initially screened to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a registrant. Complaints that are clearly outside the board's jurisdiction, that clearly do not allege facts upon which disciplinary action would be based, or that are frivolous are referred to the board for closure at the next scheduled board meeting. All other complaints are referred to the board's disciplinary committee for committee review as described in rule 193G—5.6(17A,272C,544C).

193G—5.5(272C,544C) Case numbers. Whether based on a written complaint received by the board or a complaint initiated by the board, all complaint files are tracked by a case numbering system. The board administrator maintains a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate recordkeeping and a prompt response.

193G—5.6(17A,272C,544C) Investigation procedures.

5.6(1) Disciplinary committee. The board chairperson may annually appoint, as needed, two to three members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body that reviews complaint files referred by the board administrator, generally supervises the investigation of complaints, and makes recommendations to the full board on the disposition of complaints. Members of the committee may not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

5.6(2) Committee screening of complaints. Upon the referral of a complaint from the board administrator or from the full board, the committee determines whether the complaint presents facts that, if true, suggest that a registrant may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts that suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee will refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the

committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

5.6(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer-review committee, provide the registrant an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193G—6.9(17A,272C,544C) or request that board staff conduct further investigation. Upon completion of an investigation, the investigator, expert consultant and peer-review committee or board staff will present a report to the committee. The committee will review the report and determine what further action is necessary. The committee may do any of the following:

- a.* Request further investigation.
- b.* Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.
- c.* Determine there is probable cause to believe that a law or rule enforced by the board has been violated but that disciplinary action is unwarranted on other grounds and refer the case to the full board with the recommendation of closure. The committee may also recommend that the registrant be informally cautioned or educated about matters that could form the basis for disciplinary action in the future.
- d.* Determine there is probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

5.6(4) *Subpoena authority.* Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, that the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigatory subpoenas are set forth in rule 481—503.5(17A,272C).

193G—5.7(17A,272C,544C) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected registrant, the committee may grant the registrant an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

5.7(1) An informal discussion is intended to provide a registrant an opportunity to share the registrant's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A registrant is not required to attend an informal discussion. Because disciplinary investigations are confidential, the registrant may not bring other persons to an informal discussion, but registrants may be represented by legal counsel.

5.7(2) Unless disqualification is waived by the registrant, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. An informal discussion is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a registrant who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A registrant would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a registrant accordingly agrees that none of the participating board members or staff is disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision-maker.

5.7(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

5.7(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the registrant agrees to a consent order, a statement of charges will be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193G—5.8(17A,272C,544C) Closing complaint files.

5.8(1) *Grounds for closing.* Upon the recommendation of the board's executive officer pursuant to subrule 5.4(5), the recommendation of the disciplinary committee pursuant to rule 193G—5.6(17A,272C,544C), or on its own motion, the board may close a complaint file, with or without prior investigation. The board's decision is final and not eligible for judicial review.

5.8(2) *Cautionary letters.* The board may issue a confidential letter of caution to a registrant when a complaint file is closed that informally cautions or educates the registrant about matters that could form the basis for disciplinary action in the future if corrective action is not taken by the registrant. Cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a registrant continues a practice about which the registrant has been cautioned.

5.8(3) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint.

193G—5.9(17A,272C,544C) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the board's executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11(5).

193G—5.10(17A,272C,544C) Disciplinary contested case procedures. Unless in conflict with a provision of board rules in this chapter, all of the procedures set forth in 193—Chapter 7 apply to disciplinary contested cases initiated by the board.

193G—5.11(272C,544C) Disciplinary sanctions.

5.11(1) *Types of sanctions.* The board has authority to impose the following disciplinary sanctions:

- Revoke a registration issued by the board.
- Suspend a registration issued by the board.
- Revoke or suspend the privilege to engage in one or more areas of registered interior design.
- Impose a period of probation, either with or without conditions.
- Impose requirements regarding continuing education. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for registration renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a registration. The board may also specify that current reference materials be obtained and maintained.
- Require reexamination, using one or more parts of the National Council for Interior Design Qualification (NCIDQ) examination given to candidates for the registered interior design registration.
- Impose civil penalties in an amount set by the board but not to exceed \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193G—5.2(17A,272C,544C).
- Issue a reprimand.

5.11(2) *Imposing discipline.* Discipline may be imposed against a registrant only by the affirmative vote of a majority of the members of the board who are not disqualified.

5.11(3) *Voluntary surrender.* The board may accept the voluntary surrender of a registration to resolve a pending disciplinary investigation or contested case. The board shall not accept a voluntary

surrender of a registration to resolve a pending disciplinary investigation unless a statement of charges will be filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and will be published in the same manner as other disciplinary orders.

5.11(4) Notification requirements. Whenever a registration is revoked, suspended, restricted, or voluntarily surrendered under this chapter, the registrant shall:

a. Within 15 days of receipt of the board's final order, notify in writing all clients of the fact that the registration has been revoked, suspended or voluntarily surrendered or that the practice of the registrant has been restricted. Such notice shall advise the client to obtain alternative professional services unless the restriction at issue would not impact the registered interior design services provided for that client;

b. Within 30 days of receipt of the board's final order, file with the board copies of the notices sent pursuant to paragraph 5.11(4) "*a.*" Compliance with this requirement is a condition for an application for reinstatement.

5.11(5) Civil penalties. Factors the board may consider when determining whether to assess the amount of civil penalties include:

- a.* Whether other forms of discipline are being imposed for the same violation.
- b.* Whether the amount imposed will be a substantial deterrent to the violation.
- c.* The circumstances leading to the violation.
- d.* The severity of the violation and the risk of harm to the public.
- e.* The economic benefits gained by the registrant as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time elapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the registrant acted in bad faith.
- m.* The extent to which the registrant cooperated with the board.

193G—5.12(272C,544C) Publication of decisions.

5.12(1) The board will publish the name of each registrant disciplined by the board, along with a brief description of the underlying circumstances, regardless of the nature of the violation.

5.12(2) The board will issue a formal press release in those instances in which a registration has been suspended or revoked.

5.12(3) The board will notify other state interior design boards that have issued a similar license to an Iowa registrant of disciplinary action taken against the Iowa registrant. The board will also notify the CIDQ of disciplinary action taken against an Iowa registrant.

193G—5.13(272C,544C) Reinstatement.

5.13(1) The term "reinstatement," as used in this rule and in rule 193—7.38(17A,272C), includes the reinstatement of a suspended registration, the modification or removal of a practice restriction, the issuance of a registration following the denial of an application to renew a registration, and the issuance of a new registration following the revocation or voluntary surrender of a registration.

5.13(2) Any person whose registration has been revoked, suspended or restricted by the board or who has voluntarily surrendered a registration to conclude a disciplinary investigation or proceeding or whose application to renew a registration has been denied may apply to the board to modify or terminate the suspension, issue or reissue the registration, or modify or remove the restriction in accordance with the provisions of this rule and the terms of the order of revocation, suspension or restriction, denial of registration renewal, or acceptance of voluntary surrender of a registration.

5.13(3) If the applicable order did not establish terms upon which the registrant may apply for reinstatement, an initial application for reinstatement may not be made until one year has elapsed from

the date of the order that revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender.

5.13(4) All proceedings for reinstatement will be initiated by the respondent and are subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the grounds of personal investigation the board members or staff before whom the applicant appears.

5.13(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193G—5.11(272C,544C).

5.13(6) The board will not grant an application for reinstatement when the initial order that revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a. All terms of the sentencing or other criminal order have been fully satisfied;
- b. The applicant has been released from confinement and any applicable probation or parole; and
- c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 544C.

[Filed 2/24/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9027C

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Rulemaking related to disciplinary investigations

The Interior Design Examining Board hereby rescinds Chapter 6, "Disciplinary Investigations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

The purpose of Chapter 6 is to provide information to the public and registrants about disciplinary investigations and how to submit a complaint to the Board. This chapter is being rescinded and the content will be combined with other rules regarding disciplinary action in 193G—Chapter 5 to perform the same intended benefit of this chapter.

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 8555C**.

A public hearing was held on the following date(s):

- January 28, 2025
- January 30, 2025

No one attended the hearings and no public comment was received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 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 of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193G—Chapter 6**.

[Filed 2/24/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9028C

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Rulemaking related to disciplinary proceedings

The Interior Design Examining Board hereby rescinds Chapter 7, "Disciplinary Proceedings," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 544C.

Purpose and Summary

The purpose of Chapter 7 is to provide information to the public and registrants about the disciplinary proceedings the Board can impose on a registrant. This chapter is being rescinded and the content will be combined with other rules regarding disciplinary action in 193G—Chapter 5 to perform the same intended benefit of this chapter.

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 8551C**.

A public hearing was held on the following date(s):

- January 28, 2025
- January 30, 2025

No one attended the hearings and no public comment was received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 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 of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193G—Chapter 7**.

[Filed 2/24/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9029C**IOWA FINANCE AUTHORITY[265]****Adopted and Filed****Rulemaking related to rescission of chapters**

The Iowa Finance Authority hereby rescinds Chapter 2, “Loan Programs,” Chapter 4, “General Revenue Bond Procedures,” Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Chapter 32, “Iowa Jobs Program,” Chapter 37, “Recovery Zone Bond Allocation,” and Chapter 38, “Iowa Jobs II Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 16.5, 16.5C, 16.38 and 16.39.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.4, 16.5, 16.5C, 16.38 and 16.39; 2009 Iowa Acts, Senate File 376; 2010 Iowa Acts, House File 2487; 2010 Iowa Acts, Senate File 2389; Executive Order 9 (November 7, 2008); and the federal Heartland Disaster Tax Relief Act of 2008.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is permanently rescinding the following obsolete and unnecessary chapters:

- Chapter 2, which describes the policies and procedures applicable to provide origination and servicing of mortgage and temporary loans from the Authority. The chapter does not apply to any current loan programs administered by the Authority.
- Chapter 4, which describes the policies and procedures applicable to issue revenue bonds for any of the purposes for which financing is authorized under Iowa Code chapter 16. The chapter does not apply to current bond issues by the Authority.
- Chapter 30, which describes the policies and procedures that allocate authority to issue up to a specified amount of qualified midwestern disaster area bonds. The chapter is no longer applicable. The subject bonds ceased to be available in 2012.
- Chapter 32, which describes the policies and procedures applicable to the Authority’s responsibilities as to the Iowa Jobs Program. The program has been discontinued.
- Chapter 37, which describes the policies and procedures of the recovery zone bond allocation and compliance. The chapter is no longer applicable. Iowa Code section 16.171, which authorized the rules, was repealed in 2014.
- Chapter 38, which describes the policies and procedures applicable to the Authority’s responsibilities as to the Iowa Jobs II Program. The program has been discontinued.

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 8491C**. A public hearing was held on the following date(s):

- January 7, 2025
- January 9, 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 Authority Board on February 5, 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 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 April 23, 2025.

The following rulemaking action is adopted:

- ITEM 1. Rescind and reserve **265—Chapter 2**.
- ITEM 2. Rescind and reserve **265—Chapter 4**.
- ITEM 3. Rescind and reserve **265—Chapter 30**.
- ITEM 4. Rescind and reserve **265—Chapter 32**.
- ITEM 5. Rescind and reserve **265—Chapter 37**.
- ITEM 6. Rescind and reserve **265—Chapter 38**.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9030C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to title guaranty division

The Iowa Finance Authority hereby rescinds Chapter 9, "Title Guaranty Division," 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 16.91.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.2A, 16.4C, 16.5, 16.90 through 16.93, 17A.10 and 535.8.

Purpose and Summary

Pursuant to Executive Order 10, the Authority rescinds Chapter 9 and adopts a new chapter in lieu thereof. The chapter describes the structure, policies, and procedures of the Iowa Title Guaranty Division (Division) of the Authority.

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 from the existing chapter are adopted:

- The definition of “commitment” in rule 265—9.1(16) is clarified.
- Rule 265—9.4(16) is updated to provide correct contact information for the Division.
- The process to obtain a title plant waiver, currently addressed in rule 265—9.7(16), is streamlined by removing the requirement that the Division Board approve such waivers.

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 8466C**. A public hearing was held on the following date(s):

- January 7, 2025
- January 9, 2025

Randee Slings, on behalf of the Iowa Land Title Association, commented to highlight the importance of abstractor representation for any new structure that is put in place for Iowa Title Guaranty (ITG) to maintain professional standards and knowledge of the industry. Mike St. Clair, on behalf of the Iowa Land Title Association, commented that the Association appreciates the history of collaboration with ITG and would welcome keeping abstractors involved with ITG and the Authority generally.

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 February 5, 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 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
TITLE GUARANTY DIVISION

265—9.1(16) Definitions. The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

“Abstract” means a written or electronic summary of all matters of record affecting title to a specific parcel of real estate prepared in accordance with abstract minimum standards adopted by the division, provided however, that for nonpurchase transactions, “abstract” may also mean a written or electronic short-form summary setting forth the titleholders, liens, and encumbrances in accordance with guidelines adopted by the division.

“Abstractor” means a person who is engaged in the practice of searching public records for the purpose of creating abstracts.

“Authority” means the Iowa finance authority established by Iowa Code chapter 16.

“Certificate” means the form used to guarantee title, including any part or schedule thereof and any endorsements thereto.

“Claim” means loss or damage or potential loss or damage arising by reason of a matter actually, possibly, or allegedly within the coverage of a commitment, certificate, closing protection letter, mortgage release certificate, or by reason of any other matter for which the division is actually, possibly, or allegedly liable.

“Claim loss” means amounts paid by the division in the investigation and resolution of a claim including, but not limited to, payments to the guaranteed, payments to adverse claimants, attorneys’ fees, and all other expenses and costs related to or arising from the claim.

“Closing protection letter” means the division’s written agreement to indemnify a lender or borrower or both for loss caused by a participating closer’s theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the participating closer.

“Commitment” means the division’s written offer to issue a certificate and any endorsements thereto.

“Division” means Iowa title guaranty, a division of the authority.

“Division board” means the board of the division created pursuant to Iowa Code section 16.2A(1).

“Field issuer” means a participant authorized by the division to issue commitments and certificates.

“Mortgage release certificate” means a certificate of release or a certificate of partial release issued by the division, pursuant to Iowa Code section 16.92.

“Participant” means a participating attorney, a participating abstractor, or a participating closer.

“Participating abstractor” means an abstractor who is authorized by the division to prepare abstracts for division purposes.

“Participating attorney” means an attorney licensed to practice law in the state of Iowa who is authorized by the division to prepare title opinions for division purposes.

“Participating closer” means any of the following authorized by the division to issue a closing protection letter: an Iowa licensed attorney disbursing funds through an interest on lawyer trust account, a closing agent licensed by the Iowa division of banking, or a real estate broker licensed by the Iowa real estate commission disbursing funds through a real estate trust account.

“Party” means a participant, or any other person, who has a contractual relationship with the division to provide services for which a claim may be brought against the division.

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

265—9.2(16) Mission. The mission of the division is to operate a program that offers guaranties of real property titles in order to provide, as an adjunct to the abstract-attorney’s title opinion system, a low-cost mechanism to facilitate mortgage lenders’ participation in the secondary market and add to the integrity of the land-title transfer system in the state of Iowa and to perform other duties as assigned by Iowa law.

265—9.3(16) Organization.

9.3(1) Location. The office of the division is located at the address set forth in rule 265—1.3(16). Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The division’s website address is www.iowatitleguaranty.com, and the division’s telephone number is 515.452.0484. The division’s email address is titleguaranty@iowafinance.com. Inquiries, submissions, applications and other requests for information may be directed to the division by the methods set forth herein.

9.3(2) Meetings. Meetings of the division board will generally be held quarterly on the date and time determined by the division board, or in accordance with Iowa Code section 16.2A(6). The division will give advance public notice of each division board meeting pursuant to Iowa Code chapter 21. Division board meetings may be conducted by conference call. Any person may attend and observe division board meetings except for any portion of a division board meeting that may be closed pursuant to Iowa Code section 21.5. The minutes of the division board meetings are available at the office of the division and on the division’s website. A board member who has a conflict of interest may not vote on substantive actions of the division board.

265—9.4(16) Operation. The division offers guaranties of real property titles in the state through the issuance of commitments and certificates.

9.4(1) Commitments, certificates, forms and manuals. The terms, conditions, and form of commitments and certificates shall be approved by the division board. The division may adopt and use manuals and other forms as the division deems necessary for implementation and administration of the title guaranty program.

a. The division will provide forms to a participant for use in issuing commitments and certificates on behalf of the division. A participant may not alter any form supplied by the division or use a form supplied by another person to bind the division. In addition, the participant shall not transfer or attempt to transfer unissued commitments or certificates to another participant or other person unless authorized in writing by the division.

b. In addition to the division’s other rights and remedies, the division may refuse to allow the participant access to any forms until the participant complies with the requirements of this chapter to the satisfaction of the division.

c. A participant shall be liable to the division for loss or damage sustained by the division by reason of the failure of the participant to comply with the requirements of this rule.

9.4(2) Application for commitments and certificates. The division will make an application for commitments and certificates available on the division’s website.

9.4(3) Rates. Rates for commitments, certificates and closing protection letters shall be set pursuant to Iowa Code section 16.91(1). In transactions involving extraordinary risk or unusual or unique endorsements, the division may assess additional charges.

265—9.5(16) Participants.

9.5(1) General provisions. An applicant shall submit a participant application and the first year’s annual fee and shall sign a participation agreement in order to be authorized to provide one or more services on behalf of the division.

9.5(2) Participant application. Applications for participation and renewal are available on the division’s website. An applicant shall submit an application to provide one or more services on behalf of

the division. If the applicant is approved as a participant, the participant is required to submit a renewal application annually.

9.5(3) *Eligibility considerations.* To determine whether to approve or deny a participant application, factors the division may consider include but are not limited to the following:

- a. The needs of the public and the needs of existing or potential customers of the applicant.
- b. A history of the operation and management of the applicant's business.
- c. The character, fitness, financial responsibility and experience of the applicant and the applicant's employees.
- d. A credit report or criminal background check of the applicant or the applicant's employees.
- e. A record of default in the payment of moneys collected for others by the applicant or the applicant's employees.
- f. A history of discharge of debts by the applicant or the applicant's employees through bankruptcy proceedings.
- g. Compliance with the title and settlement best practices adopted by the division.
- h. Other factors as determined by the division.

9.5(4) *Participation agreement.* The participation agreement sets forth the contractual relationship between the participant and the division. A new participation agreement is executed annually and when otherwise required by the division.

9.5(5) *Annual fee.* A participant may be required to pay an annual fee of \$75, set pursuant to Iowa Code section 16.91(4).

9.5(6) *Agent relationship.* A participant is only authorized to act as an agent of the division for the purposes and in the manner set forth in the participant's participation agreement, the Iowa Code, these rules, manuals and any other written instructions given by the division. The authority of a participant to act as an agent of the division is not exclusive and is subject to the rights of the authority, the division, and other participants, agents, or representatives of the division.

9.5(7) *Conflict of interest.* A participant shall not, without prior authorization of the division, prepare an abstract or issue a title opinion, commitment, certificate, or closing protection letter for a transaction in which the participant has a personal or financial interest in the real estate that is the subject of that transaction.

9.5(8) *Clearance of title objections.* All title objections must be cleared in accordance with applicable division manuals and any other written instructions given by the division prior to the issuance of a certificate. Any underwriting determination about which there may be a bona fide difference of opinion among attorneys, which is not specifically addressed by division manuals or instructions, shall be approved by the division in writing.

9.5(9) *Commitment and certificate coverage limitations.* A field issuer shall obtain written authorization from the division prior to issuing a commitment or certificate that exceeds the allowable maximum amount of coverage, as determined by the division. If authorization under this subrule is not obtained through the act or omission of the field issuer, the field issuer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment, closing protection letter, or certificate.

9.5(10) *Document retention.* A participant shall maintain transaction files in such a manner that information pertaining to activities of the participant is readily available to the division while protecting confidential client information. A participant shall retain files for a period of ten years after the issued date of the certificate or the issued date of the commitment if a certificate is not issued.

9.5(11) *Training.* The division may require a participant and the participant's staff to participate in training sessions or continuing education seminars as deemed necessary by the division to ensure compliance with division requirements and procedures.

9.5(12) *Compliance.* Participants shall comply with the Iowa Code, these rules, the participation agreement, manuals, and any other written instructions given by the division. The division may audit the participant, with or without notice, for verification of compliance. An audit may include but not be limited to a review of the participant's abstracts, title opinions, commitment and certificate issuance

procedures, a test of title plants and tract indices, and a review of closing policies and procedures and escrow account details.

9.5(13) Revocation. The division may revoke a participant's authorization to provide services on behalf of the division for reasons, including but not limited to the following:

- a. Failure to comply with the terms and conditions of the participation agreement.
- b. Failure to submit an annual renewal application.
- c. Knowingly withholding or misrepresenting material facts relied upon by the division.
- d. Fraud, theft, dishonesty, or misappropriation of funds or documents.
- e. Deterioration of the participant's financial condition adversely affecting the participant's ability to provide services on behalf of the division.
- f. A finding by the division director of material noncompliance with the Iowa Code, these rules, manuals, and any other written instructions given by the division.
- g. Other factors as determined by the division.

265—9.6(16) Services offered.

9.6(1) Abstracting. Abstracts utilized for division purposes must be prepared by a participating abstractor.

a. *Title plant.* A participating abstractor shall own and maintain, or lease and use, a title plant, including tract indices for each county in which that participating abstractor prepares abstracts for division purposes, unless exempt under Iowa Code section 16.91(5) "a"(2) and paragraph 9.6(1) "c" or authorized under Iowa Code section 16.91(5) "b" and paragraph 9.6(1) "d." Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstractor's participation in the title guaranty program. A government-maintained and -controlled database is not considered a title plant for division purposes.

b. *Intent to build title plant.* The division may authorize an abstractor who is building or who intends to build a title plant to prepare abstracts for division purposes, upon review of the following:

- (1) The abstractor's business plan;
- (2) Evidence that a title plant will be built for a specific county or counties within three years of authorization;
- (3) A timeline for completion of the title plant; and
- (4) A description of the applicant's abstracting experience.

c. *Exemption.* The exemption available pursuant to Iowa Code section 16.91(5) "a"(2) is unique to the participating attorney, is nontransferable, and terminates at such time as the participating attorney ceases providing abstracts for division purposes or upon the death or incapacity of the participating attorney.

d. *Title plant waivers.* The division recognizes the 40-year title plant as the preferred method of providing title evidence for the purpose of issuing commitments and certificates. The division must weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders a high quality of certificates throughout the state, rapid service, and a competitive price.

(1) General provisions. The division shall consider an application for a title plant waiver upon submission by an attorney or an abstractor.

(2) Submission of application. The division shall accept applications in the same manner as provided in subrule 9.5(2).

(3) Content of application. The applicant must provide, at a minimum, the following information:

1. The name, business address, email address, and telephone number of the applicant;
2. The applicant's business plan;
3. The county or counties in which the applicant intends to abstract;
4. A description of the applicant's abstracting experience;
5. Samples of abstracts prepared by the applicant;

6. A history of any professional disciplinary action against the applicant;
7. Professional references in support of the applicant;
8. The relevant facts that the applicant believes would justify a waiver under Iowa Code section 16.91(5) “b”; and

9. A signed statement from the applicant attesting to the accuracy of the facts provided in the application.

(4) Notification and response.

1. The division shall notify the applicant upon receipt of a complete application.
2. The Iowa State Bar Association and Iowa Land Title Association shall be provided notice of an application. Provision of the notice to the identified associations is not a requirement for the division to consider the application, and failure to inform an interested person of an application shall not void or otherwise nullify any action or decision of the division.

(5) Conditions. A waiver is unique to the recipient and is nontransferable. The division may limit a waiver as to county, transaction type, duration, or any other limitation. The division may require a waiver recipient to provide a guarantee, performance bond, or other form of indemnification as assurance for abstracts prepared by the waiver recipient on behalf of the division. The division may review the waiver annually and may require a renewal, modification or addition to any required assurances. An applicant may only retain a waiver if the applicant continues to meet the requirements for a participant in rule 265—9.5(16). If the waiver recipient fails to meet the terms of the recipient’s participation agreement, the waiver may be withdrawn by the division.

(6) Withdrawal of a waiver. A waiver issued by the division may be withdrawn or modified if, after public notice and division board meeting, the division board issues a written ruling finding any of the following:

1. That the waiver recipient knowingly withheld or misrepresented material facts relied upon by the division in granting the waiver; or
2. That the waiver recipient failed to comply with all conditions contained in the written ruling; or
3. That the abstracts prepared by the waiver recipient fail to meet the abstract minimum standards adopted by the division; or
4. That the division has revoked the waiver recipient’s authorization to provide services on behalf of the division pursuant to subrule 9.5(13).

The decision of the division board shall be final agency action, and all appeals shall be filed with the Iowa District Court for Polk County.

9.6(2) Issuing title opinions.

a. All title opinions shall be prepared by participating attorneys and issued in compliance with division procedures as specified in manuals and any other written instructions given by the division.

b. A participating attorney who is a field issuer may issue a commitment as the preliminary title opinion and the certificate as the final title opinion.

c. A participating attorney shall be licensed to practice law in the state of Iowa and shall be in good standing with the Iowa supreme court at all times while acting as an agent of the division.

9.6(3) Issuing commitments and certificates. Pursuant to a participation agreement with the division, a participant may be authorized to issue a commitment or certificate on behalf of the division. A participant’s right to issue commitments and certificates is a privilege for the convenience of the division and may be terminated pursuant to terms of the participation agreement.

9.6(4) Issuing closing protection letters.

a. Pursuant to a participation agreement with the division, a participant may be authorized to issue a closing protection letter on behalf of the division.

b. The division may require the participating closer to provide an irrevocable letter of direction to the institution at which each escrow account is established, authorizing the division to review and audit the institution’s records of such account at any time that the division, in its discretion, deems necessary.

265—9.7(16) Claims.

9.7(1) *Claim procedures.* In the event of a claim, the rights of the division and a party are as follows:

a. Upon receipt of notice by a party of a claim, the party must notify the division in writing within three business days of receipt of information about a claim by the party and shall mail notification to the division by first-class mail at the division's address as set forth in rule 265—1.3(16) or provide notification by email.

b. When a party receives a request from the division for information with respect to a claim, the party shall supply to the division any documents, correspondence, surveys, abstracts of title, title searches, title opinions, other writings, or other information known by or available to the party and relevant to the claim, even if not specifically requested by the division.

c. A party shall cooperate fully in the investigation and resolution of a claim and shall supply any additional, new information that may come to the party's attention with such promptness as the circumstances permit.

d. The division may, with or without prior notice to the party or parties involved, investigate and resolve any claim in any manner that, in the division's sole discretion, the division may deem advisable.

9.7(2) *Claim loss recovery.*

a. Any claim losses paid are recoverable from a party by the division.

b. In the absence of knowledge by the party about the title defect or other matter causing the claim loss, the division shall not seek recovery from the party when a claim loss arises from one or more of the following:

(1) Hidden defects, including but not limited to forged deeds and mortgages, false affidavits, and false statements of marital status;

(2) Errors by public officials in maintaining and indexing the public records, including but not limited to errors by county assessors, recorders, clerks, and treasurers;

(3) Errors in these rules, manuals, and any other written instructions given by the division that the party relies upon in issuing an abstract, title opinion, commitment, closing protection letter or certificate;

(4) Errors in surveys provided by registered Iowa land surveyors that the party relies upon in issuing a certificate that provides survey coverage; or

(5) Underwriting determinations or title risks approved by the division prior to issuance of the abstract, title opinion, commitment, closing protection letter, or certificate.

c. The party shall reimburse the division for a claim loss when the division determines, in accordance with paragraph 9.7(2) "*d.*," that the party is liable and when the claim loss arises from one or more of the following:

(1) Errors by the party in the preparation of an abstract or any other report of information in the public record;

(2) Reliance by the party upon sources of title searches and other title information that had not been approved by the division at the time of the reliance;

(3) Errors made by the party in examining the title information provided in an abstract, survey, affidavit, or other source of title information;

(4) Errors made by the party in the preparation or review of an abstract, title opinion, commitment, closing protection letter, or certificate;

(5) Issuance of an abstract, title opinion, commitment, closing protection letter or certificate by the party with knowledge that title is defective; or

(6) Failure of the party to follow the Iowa Code, these rules, manuals, or any other written instructions given by the division.

d. Unless another rule, the Iowa Code, manuals, or any other written instruction given by the division provides for a different standard of liability or other rule for determining whether the party shall be liable for a claim loss, the division shall apply the following standards:

(1) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2) "*c*"(1), the division may demand reimbursement from the party if the party was grossly negligent in preparing the abstract. Gross negligence includes the failure to make a search or

the use of inadequate search procedures. Gross negligence under the preceding sentence includes but is not limited to failure to search certain indices, failure to search all names of parties with an interest in the real estate, or failure to search in all public offices required by the division search procedures or procedures used by prudent title searchers if the division has not established specific search procedures. In making its determination whether to seek recovery, the division may consider the complexity of the public record, the reliance of the party upon division-approved search procedures, the training and experience of the person who made the error, and the existence or nonexistence of previous search errors by the party.

(2) In the event that a claim loss occurs for which the division may seek recovery from a party under subparagraph 9.7(2)“c”(2), the division may demand reimbursement from that party if the party relied upon sources of abstracts or other title information that had not been approved by the division at the time of the reliance.

(3) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(3), the division may demand reimbursement from the party if the party negligently examined the title information used in making a title determination, failed to raise an appropriate exception, waived an exception, or endorsed a commitment or certificate.

1. The division may make full review of local county abstracting standards and title standards as a guide to determine whether the party has failed to meet the standard of skill and competence of an abstractor who prepares an abstract or an attorney who examines titles in the community where the claim arose.

2. The division may also consider whether the party followed the Iowa Code, these rules, manuals, or any other written instructions given by the division in examining the title.

3. In addition, the division may seek input from other parties in the community in which the claim arose as to the standard of care of an abstractor who prepares an abstract or of an attorney who examines titles in that community.

(4) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(4), the division may demand reimbursement from the party if the party negligently prepared or reviewed an abstract, title opinion, commitment, closing protection letter, or certificate.

(5) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(5), the division may demand reimbursement from the party if the issuance of the abstract, title opinion, commitment, closing protection letter, or certificate constituted fraud, concealment or dishonesty, or if the issuance of the abstract, title opinion, commitment, closing protection letter or certificate was based upon an underwriting decision on an unusual risk that was made without contacting the division for approval.

(6) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(6), the division may demand reimbursement from the party if the party failed to follow the Iowa Code, these rules, manuals, or any other written instructions given by the division with respect to the matter causing the claim loss.

(7) In the event the division seeks reimbursement from a party, the division shall state the basis of the reimbursement.

265—9.8(16) Mortgage release certificate. Pursuant to Iowa Code section 16.92, the division is charged with the administration of a program to release, after proper notification, paid-off mortgages from real estate titles in Iowa by executing and filing with the county recorder a mortgage release certificate.

9.8(1) Application. The division will provide a mortgage release application on the division’s website.

9.8(2) Application fee. An applicant may be required to pay a fee of \$200 to apply for a mortgage release certificate. The fee shall be set by the division.

9.8(3) Maximum principal amount of mortgage. The division board may set a maximum principal amount for mortgages that may be released by a mortgage release certificate.

9.8(4) Authority to sign certificate. A mortgage release certificate shall be executed by the division director or designee of the division director.

265—9.9(16) Rules of construction. In this chapter, the following rules of construction shall be observed:

1. The word “shall” means mandatory and not permissive and the word “may” means permissive and not mandatory.
2. Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.
3. Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other remedies or sanctions under this chapter, or otherwise against a participant or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.
4. The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.

These rules are intended to implement Iowa Code sections 16.2A, 16.4C, 16.5, 16.90 through 16.93, 17A.10 and 535.8.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9031C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to public records and fair information practices

The Iowa Finance Authority hereby rescinds Chapter 13, “Public Records and Fair Information Practices,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 22.11.

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Authority is rescinding Chapter 13 and adopting a new chapter in lieu thereof. The new chapter will incorporate the text of the Uniform Rules on Agency Procedure regarding fair information practices in addition to other information required to be addressed by Iowa Code section 22.11.

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 8481C**. A public hearing was held on the following date(s):

- January 7, 2025
- January 9, 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 Authority Board on February 5, 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 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

265—13.1(16,22) Definitions. As used in this chapter:

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

“*Confidential records*” means records, as identified in Iowa Code section 22.7 or any other provision of law, that are not disclosed to members of the public unless otherwise ordered by a court, by the custodian of the records, or by another person duly authorized to release the records. A record may be partially or wholly confidential.

“*Custodian*” means a lawful custodian as defined in Iowa Code section 22.1.

“*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.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or is in the physical possession of the authority.

“*Record system*” means any group of records under the control of the authority 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.

“*Request for confidential treatment*” means a request, made pursuant to rule 265—13.4(16,22), for the authority to treat a record as a confidential record and withhold such record from public inspection.

265—13.2(16,22) Requests for access to authority records.

13.2(1) *Location of record.* A request for access to an authority record should be directed to the Iowa finance authority, located at the address set forth in rule 265—1.3(16). If a request for access to a record is misdirected, authority staff will promptly forward the request to the appropriate person within the authority.

13.2(2) *Office hours.* Open records are available during customary office hours of 8 a.m. to 4:30 p.m. on Monday through Friday, excluding legal holidays.

13.2(3) *Request for access.* Requests for access to authority records may be made in writing, including by email, in person, or by telephone. Requests must identify the particular records sought by name or description in order to facilitate the location of the record. A request made other than in person must include the name, email address, if available, and telephone number of the person requesting the information. If a person asks to be mailed paper copies of a record, a mailing address must be included in the request. A person is not required to give a reason for requesting an open record.

13.2(4) *Response to requests.* The authority is authorized to grant or deny access to records according to the provisions of Iowa Code chapter 22, this chapter or any other provision of law. Access to an open record shall be granted promptly upon request. If the size or nature of the request necessitates time for compliance, the authority shall comply with the request as soon as possible. The authority may delay access to a record for any of the reasons set forth in Iowa Code section 22.8(4) or 22.10(4). The authority must promptly give written notice to the requester of the reason for any delay in access to a record and the estimated length of that delay.

13.2(5) *Security of record.* No person may, without permission from the authority, search or remove any record from authority files. Examination and copying of records will be done under the supervision of authority staff to ensure records are protected from damage and disorganization.

13.2(6) *Copying.* The authority will permit the copying of records as described in Iowa Code section 22.3.

13.2(7) *Fees.* The authority may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. An hourly fee may be estimated in advance and charged for actual authority expenses in the inspection, reviewing, and copying of requested records when the total staff time dedicated to fulfilling the request requires an excess of two hours. When the estimated fee chargeable under this subrule exceeds \$25, the authority may require a requester to make an advance payment of all or part of the estimated fee. When a requester has previously failed to pay a fee charged under this subrule, the authority may require advance payment of the full amount of any estimated fee before the authority processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.

265—13.3(16,22) Access to confidential records. The following procedures for access to confidential records are in addition to those specified for all authority records in rule 265—13.2(16,22).

13.3(1) A person requesting access to a confidential record may be required to provide proof of identity or authority if access to the record is limited to a particular person or class of persons.

13.3(2) The authority may require a request for access to a confidential record to be in writing. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

13.3(3) When the authority denies a request for access to a confidential record, in whole or in part, the requester shall be notified in writing. The written notice will include:

- a. The name and title or position of the person or persons responsible for the denial; and
- b. A brief statement of the grounds for the denial, including a citation to the applicable provision of law vesting authority in the authority to deny disclosure of the record.

13.3(4) When the authority grants a request for access to a confidential record to a particular person, the authority will indicate any lawful restrictions imposed by the authority on that person's examination and copying of the record.

265—13.4(16,22) Requests for confidential treatment.

13.4(1) A request for confidential treatment must be submitted in writing to the authority and:

- a.* Identify the information for which confidential treatment is sought.
- b.* Cite the legal and factual basis for confidential treatment.
- c.* Identify the name, address, telephone number, and email address, if available, of the person authorized to respond to any inquiry or action of the authority concerning the request.
- d.* Specify the precise period of time for which the confidential treatment is requested, if applicable.

13.4(2) The authority may request additional factual information from the person requesting confidential treatment.

13.4(3) The authority must notify the requester in writing of the granting or denial of the request. If a request for confidential treatment is denied, the authority shall notify the requester in writing of the reasons for its denial. Pursuant to Iowa Code section 22.8, the authority may reasonably delay examination of the record. However, if the authority determines that the requester had no reasonable grounds for the request for confidential treatment, then such record shall not be withheld from public inspection for any period of time after the denial of the request. The authority may 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 authority 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 authority 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.

13.4(4) Failure of a person to request confidential treatment for a record does not preclude the authority from treating it as a confidential record.

265—13.5(16,22) Additions, dissents or objections. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement must be filed with the authority, must be dated and signed by the person who is the subject of the record, and include the person's current address and telephone number, and email address, if available. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any authority proceeding.

265—13.6(16,22) Notices to suppliers of information. The authority will notify suppliers of information of the use that will be made of the information, which persons outside the authority might routinely be provided the information collected and identify which parts of the requested information are required and which are optional and will state the consequences of failing to provide the information. This notice may be given in the authority's rules, on written forms used to collect the information, in contracts, in program guidance, verbally, or by other appropriate means.

265—13.7(16,22) Disclosure of records—consent.

13.7(1) *Disclosure for routine use.* In this chapter, "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. To the extent allowed by law, the following uses are considered routine uses of all authority records, including confidential records:

- a.* Disclosure to those officers, employees, and agents of the authority who have a need for the record in the performance of their duties.
- b.* Disclosure to a contractor, including but not limited to the department of inspections, appeals, and licensing, for matters in which it is performing services or functions on behalf of the authority.
- c.* Transfers of information within the authority, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.
- d.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the authority is operating a program lawfully.

e. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

13.7(2) *Other disclosures of confidential records.* To the extent allowed by law, the following uses may result in disclosure of confidential records without the consent of the subject:

a. Disclosure to a recipient who has provided the authority with advance written assurance that the record will be used solely as statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

b. 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 order.

c. Disclosure 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 the head of such government agency or instrumentality has submitted a written request to the authority specifying the record desired and the law enforcement activity for which the record is sought.

d. Disclosure pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

e. Disclosure to the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. Disclosure in response to a court order or subpoena.

13.7(3) *Consent to disclosure of confidential records.*

a. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to the subject or to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, if applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, if applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity.

b. When a record has multiple subjects with interest in the confidentiality of the record, the authority may take reasonable steps to protect confidential information relating to another subject.

265—13.8(16,22) Availability of records.

13.8(1) Authority open records are open for public inspection and copying unless otherwise prohibited by current rule or law.

13.8(2) Certain records identified in rules 265—13.9(16,22) and 265—13.10(16,22), or otherwise maintained by the authority, may be confidential records, in whole or in part, and not routinely made available for public inspection pursuant to Iowa Code section 22.7 or other applicable law.

265—13.9(16,22) Personally identifiable information.

13.9(1) The authority collects personally identifiable information pursuant to Iowa Code chapter 16, federal statutes and regulations governing federal programs and the issuance of debt by the authority, and other applicable laws. Personally identifiable information is stored by electronic and physical methods. The authority's record systems do not match, collate or compare personally identifiable information in each system with personally identifiable information contained in other record systems. The authority's record systems can collect, maintain and retrieve information by personal identifiers, including names, mailing addresses, and email addresses. This rule describes the nature and extent of personally identifiable information that is collected, maintained and retrieved by the authority by personal identifier in record systems.

13.9(2) *Program records.* Records of persons or organizations participating in the authority's programs are collected by the authority. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information, such as name, address, social security number and telephone number, may be included in these records

when the applicant is an individual. Portions of program records may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

13.9(3) Correspondence. Records of correspondence from persons outside the authority or sent to persons outside the authority may contain personally identifiable information provided by the sender or recipient of such correspondence. Portions of correspondence may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

13.9(4) Litigation files. The authority maintains records regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. These records contain materials that are confidential as attorney work product and attorney-client communications pursuant to Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503(3); Federal Rule of Civil Procedure 26(b)(3); the rules of evidence; the Code of Professional Responsibility; and case law. Some materials are confidential under other applicable provisions of law or as directed by a court order.

13.9(5) Personnel files. The authority maintains files containing information about employees, families and dependents, and applicants for positions with the authority. Portions of personnel files may be confidential pursuant to Iowa Code section 22.7(11).

13.9(6) Bond records. The authority maintains records related to bonds as provided in Iowa Code section 76.10. Such records may be confidential pursuant to Iowa Code section 22.7(17).

265—13.10(16,22) Other groups of records. This rule describes groups of records maintained by the authority other than record systems. These records are routinely available to the public. All or portions of such records may contain confidential information pursuant to Iowa Code section 22.7 or other applicable law. The records are stored by electronic and physical methods.

13.10(1) Rulemaking records. Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

13.10(2) Meeting records. Agendas, minutes and materials presented to boards and other bodies associated with the authority are available from the authority, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Authority meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

13.10(3) Publications. News releases, annual reports, project reports, newsletters, and related documents are available from the authority. Authority news releases, project reports, and newsletters may contain information about individuals, including authority staff. This information is not retrieved by individual identifier.

13.10(4) Statistical reports. Periodic reports for various authority programs are available from the authority. Statistical reports do not contain personally identifiable information.

13.10(5) Published materials. The authority uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

13.10(6) Policy manuals. The authority employees' manual, containing procedures describing the authority's regulations and practices, is available. Policy manuals do not contain information about individuals.

13.10(7) Other records. All other records that are not exempt from disclosure by law are available from the authority.

265—13.11(16,22) Applicability. This chapter does not:

13.11(1) Require the authority to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

13.11(2) Make available to the general public records that would otherwise not be available pursuant to Iowa Code chapter 22.

13.11(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the authority that are governed by the regulations of another agency.

13.11(4) Make available records compiled by the authority 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 legal and constitutional principles, rules of discovery, evidentiary privileges and applicable regulations of the authority.

These rules are intended to implement Iowa Code chapters 16 and 22.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9032C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to state housing trust fund

The Iowa Finance Authority hereby rescinds Chapter 19, "State Housing Trust Fund," 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 16.181.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.5 and 16.181.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 19 and adopting a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Housing Trust Fund established pursuant to Iowa Code section 16.181.

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 8480C**. A public hearing was held on the following date(s):

- January 7, 2025
- January 9, 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 Authority Board on February 5, 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 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
STATE HOUSING TRUST FUND

265—19.1(16) Trust fund allocation plans. The state housing trust fund is established pursuant to Iowa Code section 16.181.

19.1(1) The authority shall allocate funds in the state housing trust fund according to Iowa Code section 16.181 and the following allocation plans:

- a.* The Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Local Housing Trust Fund Program dated September 8, 2021; and
- b.* Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Project-Based Housing Program dated August 5, 2009.

19.1(2) The trust fund allocation plans for the local housing trust fund program and the project-based housing program include the plans, applications, and application instructions. The trust fund allocation plans for the local housing trust fund program and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6.

265—19.2(16) Location of copies of the plans. The trust fund allocation plans for the local housing trust fund program and the project-based housing program will be posted on the authority's website at www.iowafinance.com. The plans incorporate by reference Iowa Code section 16.181.

These rules are intended to implement Iowa Code sections 16.5(1)“r” and 16.181.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9033C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to electrical inspection program

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 504, “Standards for Electrical Work”; rescinds Chapter 550, “Electrical Inspection Program—Organization and Administration,” and adopts a new Chapter 550, “Electrical Inspection Program”; and rescinds Chapter 551, “Electrical Inspection Program—Definitions,” Chapter 552, “Electrical Inspection Program—Permits and Inspections,” Chapter 553, “Civil Penalties,” and Chapter 559, “Electrical Inspection Program—Utility Notifications and Responsibilities of Utilities,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 103.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 103 and Executive Order 10.

Purpose and Summary

Iowa Code section 103.6 provides that the Electrical Examining Board will adopt rules pursuant to Iowa Code chapter 17A and those rules will be governed by the minimum standards set forth in the most current publication of the National Electrical Code (NEC) issued and adopted by the National Fire Protection Association (NFPA) and amendments to the NEC. The Board will also adopt rules establishing wiring standards that protect public safety and health and property. Those standards will apply to all electrical wiring installed pursuant to Iowa Code chapter 103. Iowa Code section 103.6 also requires that the Board establish and provide for the collection of fees for inspection and other services, with maximum fees set forth in Iowa Code chapter 103.

This rulemaking implements the aforementioned Iowa Code sections by establishing the Electrical Inspection Program, which enforces electrical installation requirements as set forth by the Electrical Examining Board. The rulemaking establishes the organization and hierarchy of the program and sets forth uniform qualifications of inspectors. The rulemaking also sets universal fees for services provided by the program.

The rulemaking includes the adoption by reference of a more recent edition of NFPA’s NEC—from the 2020 edition through the 2023 edition—in order to appropriately implement Iowa Code section 103.6(1)“a.” It also updates inspector qualifications to include additional certification options provided by the NFPA, International Association of Electrical Inspections (IAEI), and International Code Council. Finally, it corrects language related to the point at which failure to properly submit a request for permit and inspection subjects an individual to potential civil penalty in accordance with Iowa Code section 103.25. Other changes to these rules include nonsubstantive editorial revisions, including deleting language that is duplicative of 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 8582C**. A public hearing was held on the following date(s):

- January 28, 2025
- January 29, 2025

In total, 12 individuals attended the public hearings, with 9 offering public comment at the hearings. The Department also received one written public comment outside of the public hearings. One commenter appreciated the nonsubstantive, but clarifying, revisions that were made to the permit and inspection rules. Nine of the ten public comments received substantively requested that the Board adopt the 2023 NEC without amendment. Specifically, the commenters took exception to the amendments identified above regarding 2023 NEC articles 210.8(A), 210.8(D), and 210.8(F). Commenters cited safety concerns and the resolution of prior manufacturing and compatibility issues as supportive of adopting those articles as drafted in the 2023 NEC.

One public comment was received in writing, outside of the public hearing. That comment substantively requested that the Board adopt the 2023 NEC without amendment.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 20, 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 the provisions of rule 661—10.222(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 July 1, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **661—Chapter 504**.

ITEM 2. Rescind 661—Chapter 550 and adopt the following **new** chapter in lieu thereof:

CHAPTER 550 ELECTRICAL INSPECTION PROGRAM

661—550.1(103) Electrical inspection program. The electrical inspection program is created within the department of inspections, appeals, and licensing and may be contacted as provided in 481—Chapter 1 and on the department's website: dial.iowa.gov. The program is under the supervision of the director, is headed by a chief electrical inspector, and enforces requirements for electrical installations adopted by the electrical examining board.

661—550.2(103) Definitions. The definitions set forth in Iowa Code sections 103.1 and 103.1A are incorporated herein by reference. The following definitions also apply:

“Emergency installation” means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or manmade disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work and may be performed prior to submission of a request for permit or request for inspection.

“Residential electrical work” means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories

in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

“Volunteer emergency service provider” means a volunteer fire fighter as defined in Iowa Code section 85.61, a volunteer emergency rescue technician as defined in Iowa Code section 147A.1 or a reserve peace officer as defined in Iowa Code section 85.61.

661—550.3(103) Installation requirements. The provisions of the National Electrical Code, 2023 edition, published by the National Fire Protection Association, are incorporated herein by reference as the requirements for electrical installations performed by persons subject to licensing and inspection pursuant to Iowa Code chapter 103 and rules promulgated thereunder, with the following amendments:

550.3(1) Delete article 210.8(A), “Dwelling Units,” and insert in lieu thereof the following new section:

“210.8(A) Dwelling Units.

All 125-volt, 15- and 20-ampere receptacles installed in the following locations and supplied by single-phase branch circuits rated 150 volts or less to ground shall have ground-fault circuit-interrupter protection for personnel:

- (1) Bathrooms
- (2) Garages and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use
- (3) Outdoors
- (4) Crawl spaces – at or below grade level
- (5) Basements
- (6) Kitchens
- (7) Areas with sinks and permanent provisions for food preparation, beverage preparation, or cooking
- (8) Sinks – where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink
- (9) Boathouses
- (10) Bathtubs or shower stalls – where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall
- (11) Laundry areas
- (12) Indoor damp and wet locations.”

550.3(2) Delete article 210.8(D), “Specific Appliances,” and insert in lieu thereof the following new section:

“210.8(D) Specific Appliances.

GFCI protection shall be provided for the branch circuit or outlet supplying the following appliances rated 150 volts or less to ground and 60 amperes or less, single- or 3-phase:

- (1) Automotive vacuum machines
- (2) Drinking water coolers and bottle fill stations
- (3) High-pressure spray washing machines
- (4) Tire inflation machines
- (5) Vending machines
- (6) Sump pumps
- (7) Dishwashers
- (8) Microwave ovens.”

550.3(3) Delete article 210.8(F), “Outdoor Outlets.”

661—550.4(103) Qualifications of inspectors.

550.4(1) State inspectors. Electrical inspectors will be certified as commercial and residential electrical inspectors no later than one year after starting employment in any of these positions. Certification will be obtained from the International Association of Electrical Inspectors as both a certified residential electrical inspector and as a certified master electrical inspector; from the National

Fire Protection Association as a certified electrical inspector; or from the International Code Council as both a residential electrical inspector (E1) and a commercial electrical inspector (E2), or as an electrical inspector (E5).

550.4(2) *Political subdivision inspectors.* A political subdivision that performs its own inspections as provided in Iowa Code section 103.24 must require certification of its inspectors. A person employed or appointed as an electrical inspector must obtain certification within one year of the appointment date. The board may act to enforce statutory compliance by the individual or by the political subdivision if a person employed or appointed as an inspector fails to obtain certification within one year of employment or appointment or fails to maintain the required certification while employed as an inspector. Certification of electrical inspectors for political subdivisions shall be obtained as set forth in subrule 550.4(1), except that a political subdivision has the authority to limit an inspector's duties to only residential inspections or only commercial inspections provided the inspector assigned to those duties obtains and maintains the proper certification to conduct the inspections assigned.

661—550.5(103) Required permits and inspections. Permits and inspections are required for electrical installations as set forth in Iowa Code section 103.23, with the following exceptions:

550.5(1) Exception 1: Installations in political subdivisions that perform electrical inspections and that are inspected by the political subdivision are not required to be inspected by the state electrical inspection program. Any installation that is subject to inspection and is on property owned by the state or an agency of the state shall be inspected by the state electrical inspection program. An electrical installation on a farm that is located outside the corporate limits of any municipal corporation (city) shall not be inspected by a political subdivision.

550.5(2) Exception 2: Neither a permit nor an inspection is required for an electrical installation that meets all of the following criteria:

- a.* The installation is legally performed by a master electrician, journeyman electrician, or apprentice electrician working under the direct supervision of a master or journeyman electrician.
- b.* The installation to be performed does not in any way involve work within an existing or new switchboard or panel board.
- c.* The installation to be performed does not involve over-current protection of more than 30 amperes.
- d.* The installation to be performed does not involve any electrical-line-to-ground circuit of more than 277 volts, single phase.

550.5(3) Exception 3: Neither a permit nor an inspection is required for any electrical installation on a farm or a farm building if the farm building is not regularly open to the public as a place of business for the retail sale of goods, wares, services, or merchandise. This exception does not apply to a residential installation located on a farm.

NOTE: Iowa Code sections 103.22 and 103.30(1) provide separately for the inapplicability of Iowa Code chapter 103 to particular persons and circumstances.

661—550.6(103) Requests for permit and inspection.

550.6(1) Prior to commencement of any electrical installation requiring an inspection, the licensee or property owner making such installation shall notify the electrical inspection program of the installation by applying for a permit unless the installation is an emergency installation. For emergency installations that would otherwise require a request for permit and inspection under rule 661—550.6(103), the request shall be made as soon as practicable and no later than 72 hours after the installation is completed. A permit may be obtained as follows:

- a.* By completing and electronically submitting the online application and inspection fees through the department's website.
- b.* By completing the Electrical Permit Manual Application and mailing it and the inspection fees to the department at least seven days prior to the commencement of the installation. The Electrical Permit Manual Application may be obtained through the department's website or upon request to the department.

550.6(2) Upon completion of the electrical installation, the licensee or property owner shall notify the electrical inspection program to schedule an inspection in the same manner as described in paragraph 550.6(1) “a” or “b.”

661—550.7(103) Fees.

550.7(1) Fees are adopted in the amounts set forth in Iowa Code section 103.32.

550.7(2) Inspection fees will normally be paid at the time a permit is obtained. However, additional fees may apply if a permit is modified by an inspector, based upon inspection of the electrical installation. The person who obtained the original permit will be notified immediately by the inspector of the modification and of the amount of any additional fees due. Any additional fees will be due at the time the person responsible for payment receives notification of modification of the permit.

a. If an additional fee or portion of the fee is more than 60 days past due, the board or its delegee will notify the person responsible for payment of the fee of the necessity of promptly making the payment.

b. If an additional fee or portion of the fee is more than 120 days past due, the board or its delegee may suspend the ability of the person responsible for the payment to obtain inspection permits. The person’s ability to obtain permits will be restored when payment of the past due amount has been received. Suspension of a person’s ability to obtain permits may be appealed to the board as provided in rule 661—503.4(103).

c. If payment of a fee or portion of a fee is more than 180 days past due, the board may refer the debt for collection pursuant to Iowa Code chapter 272D.

550.7(3) When an installation has been commenced without completing the online application or Electrical Permit Manual Application as described in subrule 550.6(1), twice the fees that would have been applicable if a timely request had been filed shall be paid.

661—550.8(103) Scheduling of inspections. Pursuant to Iowa Code section 103.31, electrical inspections will be scheduled within three business days of the receipt of the request. If an inspection for which a timely request has been made is not completed within three business days of the completion of the installation, a licensee who completed the installation may energize any new circuits included in the installation, although the installation remains subject to condemnation and disconnection if found to be out of compliance with any applicable provision of rule 661—550.3(103) when inspected.

661—550.9(103) Report of inspection. After the completion of an inspection, the inspector will issue an inspection report indicating the results of the inspection and provide any necessary notice to the utility providing electrical service pursuant to Iowa Code section 103.28. The results of the inspection may be any of the following:

550.9(1) *Approval.* If the inspector finds that the installation is in compliance with applicable requirements, the inspector will issue a report indicating that the installation is approved.

550.9(2) *Order of correction.* If the inspector finds that the installation is not in compliance with applicable requirements but does not present an imminent threat to the health or safety of any person, the inspector will issue an order of correction, prescribing a time frame during which corrective action shall be taken by the licensee responsible for the installation to bring the installation fully into compliance.

550.9(3) *Order of disconnection.* If the inspector finds that the installation is not in compliance with applicable requirements and presents an imminent threat to the health or safety of any person, the inspector will issue an order of disconnection, requiring that the installation be disconnected until corrective action has brought the installation into full compliance with applicable requirements. The installation shall not be reconnected until the corrected installation has been approved by an inspector as in compliance with all applicable requirements. The inspector issuing an order of disconnection will notify the utility providing electrical service to the location of the order and will notify the utility when the order of disconnection is no longer effective.

661—550.10(103) Appeals. An order of correction or an order of disconnection may be appealed. However, an order of disconnection shall be complied with immediately and the installation not reconnected pending the outcome of the appeal.

550.10(1) A person who has received an order of correction or disconnection may request an informal appeal to the chief electrical inspector within 14 days of receiving the order by contacting the electrical inspection section by telephone, email or mail. The informal appeal may be heard in any manner agreed to by the person filing the appeal and the chief electrical inspector. If the order is upheld by the chief electrical inspector, the person receiving the order may file a formal appeal pursuant to 661—subrule 552.5(2).

550.10(2) A person who has received an order of correction or disconnection may file a request for a formal appeal to the board within 30 days of receiving the order or, if the person has filed a request for an informal appeal, within 30 days of having been notified that the chief electrical inspector has upheld the order. Formal appeals will be processed as provided in 481—Chapter 506, except that “electrical examining board” is substituted therein as appropriate.

661—550.11(103) Civil penalty. Any person who commences an electrical installation subject to inspection pursuant to Iowa Code chapter 103 and who fails to file a Request for Permit and Inspection form within 14 days of notification as prescribed by Iowa Code section 103.25 may be subject to a civil penalty. The amount of the civil penalty will not exceed \$750 as determined by the board. Notice will be provided by certified mail to any person on whom a civil penalty is imposed.

661—550.12(103) Civil penalty—appeal. Any person on whom a civil penalty has been imposed may appeal the imposition of the civil penalty to the board within 14 days of the date on which notice of the civil penalty was mailed by notifying the board in writing that the person wishes to appeal the civil penalty. An appeal of a civil penalty is to be subject to the provisions of 481—Chapter 506, which apply to contested cases, except that “electrical examining board” is substituted therein as appropriate.

These rules are intended to implement Iowa Code chapter 103.

ITEM 3. Rescind and reserve **661—Chapter 551.**

ITEM 4. Rescind and reserve **661—Chapter 552.**

ITEM 5. Rescind and reserve **661—Chapter 553.**

ITEM 6. Rescind and reserve **661—Chapter 559.**

[Filed 2/24/25, effective 7/1/25]

[Published 3/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9038C

REVENUE DEPARTMENT[701]

Adopted and Filed

**Rulemaking related to administration of cigarette, tobacco,
vapor products, and alternative nicotine products**

The Revenue Department hereby adopts new Chapter 230, “Administration of Cigarette, Tobacco, Vapor Products, and Alternative Nicotine Products,” and rescinds Chapter 254, “Administration,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 453A.8, 453A.13, 453A.25, 453A.40, 453A.47, 453A.47A and 453A.49.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 453A.

Purpose and Summary

The purpose of this rulemaking is to adopt new Chapter 230 and rescind and reserve Chapter 254. Chapter 254 contains rules on the Department's interpretation of Iowa Code chapter 453A on the administration of cigarette and tobacco taxes and the regulation of alternative nicotine and vapor products. The Department determined that the rules aid the public understanding of these topics. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department determined that the current placement of the administrative rules on cigarette and tobacco-related and adjacent topics did not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department readopted the rules on the administration of the excise tax on cigarette and tobacco products and the regulation of alternative nicotine and vapor products in new Chapter 230. This move provides the public easier accessibility to this and other cigarette and tobacco-related administrative rules. The Department revised the text of the rules for better organization and clarification and removed unnecessary, obsolete, and duplicative statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8733C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 230:

CHAPTER 230
ADMINISTRATION OF CIGARETTE, TOBACCO, VAPOR PRODUCTS, AND
ALTERNATIVE NICOTINE PRODUCTS

701—230.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E. In addition, as used in this title, the following definitions apply:

“*Permit*” means any permit or license issued under Iowa Code chapter 453A.

“*Permittee*” means any person holding or required to obtain a permit or license of any kind under Iowa Code chapter 453A.

“*Supplier*” means any person or firm authorized to manufacture or supply cigarette stamps for the department.

“*Tax*” means the tax imposed under Iowa Code chapter 453A.

“*Taxpayer*” means any person required to collect or remit tax directly to the department or required to be licensed or to file any report or return or keep records under Iowa Code chapter 453A.

“*Tobacco*” means the same as “tobacco products” as defined in Iowa Code sections 453A.1 and 453A.42.

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.

701—230.2(453A) Records.

230.2(1) *Generally.* Every taxpayer shall keep, preserve, and make available to the department records for a period of at least three years. The following is a nonexhaustive list of records that are subject to the provisions of this rule. 701—Chapter 11 provides more information for taxpayers using an electronic data interchange process or technology. Nothing in this rule shall be construed to affect the provisions of any applicable federal law. The records will be considered inadequate when the requirements of this rule are not met. The director may, by express order in certain cases, authorize permit holders to keep their records in a manner and upon forms other than those so prescribed (agreements must be in writing).

230.2(2) *General requirements for records used in an appeal.* If a tax liability has been assessed and an appeal is pending to the department, district court or an appellate court, books, papers, records, memoranda or documents specified in this rule that relate to the period covered by the assessment shall be preserved until the final disposition of the appeal.

230.2(3) *Cigarette manufacturer.* Cigarette manufacturers are required to keep the following records.

- a. Records, including invoices, showing the sale of cigarettes in Iowa or the sale of cigarettes for shipment into Iowa.
- b. Records evidencing the transportation of cigarettes into Iowa.
- c. Records, including invoices, showing all sales of cigarettes to permittees.
- d. A record of all stamps purchased.
- e. Copies of all reports filed with the department.

230.2(4) *Cigarette distributing agent.* Cigarette distributing agents are required to keep the following records.

a. Records of the receipt of all cigarettes showing the number of cigarettes received and from whom the cigarettes were received.

b. Records of all distribution of cigarettes showing the number of cigarettes shipped and to whom and at whose direction the cigarettes were distributed.

c. Records showing all exports of cigarettes.

d. Copies of all reports filed with the department.

e. Detailed inventory records.

f. Freight receiving and shipping records.

230.2(5) Cigarette distributors. Cigarette distributors are required to keep the following records.

a. Records, including invoices, showing the purchase of all cigarettes sold, used or stored in Iowa.

b. Records, including invoices, showing the sale of cigarettes in Iowa.

c. Detailed inventory records.

d. Freight receiving and shipping records.

e. A record of all stamps purchased.

f. Copies of all reports filed with the department.

230.2(6) Cigarette wholesaler. Cigarette wholesalers are required to keep the following records.

a. Records, including invoices, evidencing the purchase of all cigarettes.

b. Records, including invoices, evidencing the sale of all cigarettes.

c. Detailed inventory records.

230.2(7) Cigarette vendor. Cigarette vendors are required to keep the following records.

a. Records, including invoices, evidencing the purchase of all cigarettes.

b. Records evidencing the sale of cigarettes.

c. Inventory records.

d. Records of all cigarette vending machines owned, furnished, installed, serviced, operated or maintained by the vendor and the location of each.

230.2(8) Cigarette retailer. Cigarette retailers are required to keep the following records.

a. Records, including invoices, evidencing the purchase of all cigarettes.

b. Inventory records.

230.2(9) Tobacco distributor. Tobacco distributors are required to keep the same records as a cigarette distributor as described in subrule 230.2(5), but with respect to tobacco, no records of stamps purchased are required.

230.2(10) Tobacco subjobber. Tobacco subjobbers are required to keep the same records as a cigarette wholesaler as described in subrule 230.2(6) but with respect to tobacco.

230.2(11) Tobacco retailer. Tobacco retailers are required to keep the same records as a cigarette retailer as described in subrule 230.2(8) but with respect to tobacco.

230.2(12) Common carrier engaged in transporting cigarettes or tobacco products into Iowa. Common carriers engaged in transporting cigarettes or tobacco products into Iowa are required to keep the following records.

a. Copies of bills of lading or manifests as to each transportation of cigarettes or tobacco.

b. Log book or trip sheets.

230.2(13) Microfilm and related records system.

a. Microfilm, microfiche, COM (computer on machine) and other related reduction in storage systems will be referred to as "microfilm" in this rule.

b. Microfilm reproductions of general books of account, such as a cash book, journals, voucher registers, ledgers, etc., are not acceptable other than those that have been approved by the Internal Revenue Service. However, microfilm reproductions of supporting records of detail, such as sales invoices, purchase invoices, credit memoranda, etc., may be allowed providing all the following conditions are met and accepted by the taxpayer.

(1) Appropriate facilities are provided to ensure the preservation and readability of the films.

(2) Microfilm rolls are indexed, cross-referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and systematically filed.

(3) The taxpayer agrees to provide transcripts of any information contained on microfilm that may be required for purposes of verification of tax liability.

(4) Proper facilities are provided for the ready inspection and location of the particular records, including modern projectors for viewing and for the copying of records.

(5) Any audit of “detail” on microfilm may be subject to sample audit procedures, to be determined at the discretion of the director or the director’s designated representative.

(6) A posting reference must be on each invoice.

(7) Credit memoranda must carry a reference to the document evidencing the original transaction.

(8) Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, must be maintained in an order by which they readily can be related to the transaction for which exemption is sought.

230.2(14) *Automatic data processing records.* Automatic data processing records are defined and described in 701—Chapter 11.

230.2(15) *Other persons.* The director may require any person other than those previously listed in this rule to maintain books and records as deemed necessary by the director.

This rule is intended to implement Iowa Code sections 453A.15, 453A.18, 453A.19, 453A.24, 453A.45, and 453A.49.

701—230.3(453A) Form of invoice. Whenever an invoice is required to be prepared or kept by Iowa Code chapter 453A or these rules, at minimum, it must contain the following information:

1. Seller’s name and address.
2. Purchaser’s name, address, and permit number (if any).
3. Date of sale.
4. All prices and discounts stated separately.
5. An indication as to whether cigarettes or tobacco products are being sold with or without tax stamps attached or tax included.
6. Origination and destination points.

This rule is intended to implement Iowa Code sections 453A.15, 453A.25, 453A.45, and 453A.49.

701—230.4(453A) Bonds. When bonds are required by Iowa Code chapter 453A or these rules, said bonds will be in the form of cash or a bond issued by a surety company licensed to do business in the state of Iowa, payable to the State of Iowa, and in a form approved by the director. Bonds required by tobacco distributors must be issued by a surety company licensed to do business in Iowa. However, with prior approval by the director, a cash bond will be accepted by the department as a substitute for the surety bond. Iowa Code section 453A.44(4) provides more information.

This rule is intended to implement Iowa Code sections 453A.14 and 453A.44.

701—230.5(453A) Permit applications and denials.

230.5(1) *Applications for permits in general.* The application forms for all permits issued under Iowa Code chapter 453A are available from the department. Each application must include the following information:

- a. Nature of the applicant’s business;
- b. Type of permit requested;
- c. Address of the principal office of the applicant;
- d. Address of the place of business for which the permit is to apply;
- e. Names and addresses of no more than three principal officers or members, if the business is not a sole proprietorship;
- f. A list of persons who will be the applicant’s suppliers or customers or both (whichever is applicable);
- g. Whether the applicant possesses any other permit issued under Iowa Code chapter 453A; and
- h. Signature of the person authorized to complete the application. For electronically transmitted applications, the application form will state that, in lieu of the person’s handwritten signature, the person’s email address or the person’s fax signature will constitute a valid signature.

i. Any other information required on the forms issued by the department for the purpose of administering Iowa Code chapter 453A and these rules.

230.5(2) Cigarette distributor applicants. In addition to the requirements above, cigarette distributor applicants must also supply certificates from cigarette manufacturers indicating the intention to sell unstamped cigarettes to the applicant.

230.5(3) Denial of application for permit.

a. The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due that is administered by the department or the interest or penalty on the tax. Rule 701—201.10(423) describes what constitutes being substantially delinquent in paying a tax.

b. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership.

c. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. Unlike a partnership, the corporation must, initially, owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax.

d. The director will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from child support services in regard to the individual unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

230.5(4) Applications for retail permits. Applications for retail permits are supplied by the department to city councils and county boards of supervisors. The application must be filed with the individual council or board either in a paper format or online through GovConnectIowa.

This rule is intended to implement Iowa Code chapter 252J and sections 453A.13, 453A.16, 453A.17, 453A.22, 453A.23, and 453A.44.

701—230.6(453A) Permit revocation.

230.6(1) Revocation by the department. Any permit revocation by the department under Iowa Code chapter 453A and this rule is subject to the requirements of rules 701—7.19(17A) and 701—7.39(17A).

230.6(2) Delinquency.

a. The department may revoke the permit of any permit holder who becomes substantially delinquent in paying any tax that is administered by the department or the interest or penalty on the tax. Rule 701—201.10(423) describes what constitutes being substantially delinquent in paying a tax.

b. If the permit holder is a corporation, the department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax.

c. If the permit holder is a partnership, a permit cannot be revoked for a partner's substantial delinquency in paying any tax, penalty, or interest that is not a liability of the partnership.

230.6(3) Revocation by a local jurisdiction. Iowa Code chapter 17A does not apply to boards of supervisors or city councils. As a result, any permit revocation by a board of supervisors or city council is subject to the procedure or policy adopted by such board of supervisors or city council.

230.6(4) Revocations for child support violations. The department will revoke a permit of a permit holder, who is an individual, if the department has received a certificate of noncompliance from child support services in regard to the permit holder unless the unit furnishes the department with a withdrawal of the certificate of noncompliance. The board of supervisors or the city council that issued a retail permit is required by Iowa Code chapter 252J to revoke the permit of any retailer who is an individual if the board or council has received a certificate of noncompliance from child support services in regard to the retailer unless the unit furnishes the board of supervisors or the city council with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapter 252J and sections 453A.13, 453A.22, 453A.44(11), and 453A.48(2).

701—230.7(453A) Inventory tax.

230.7(1) *Inventory.* All persons required to obtain a permit under Iowa Code section 453A.13 and 453A.44 as distributors shall take an inventory of all cigarettes and little cigars in their possession prior to delivery for resale upon which the tax stamp or metered imprint has been affixed and all unused cigarette tax stamps and unused metered imprints in their possession at the close of business on the day preceding the effective date of an increase in the tax rate.

230.7(2) *Remittance.* Persons required to take an inventory shall remit the tax due on all cigarette stamps or metered imprints and all cigarettes and little cigars with stamps or metered imprints affixed in their possession prior to delivery for resale within 30 days of the inventory date.

230.7(3) *Computation.* The tax is equal to the difference between the amount paid for cigarette stamps or metered imprints purchased prior to the tax increase and the amount that is to be paid for cigarette stamps or metered imprints purchased after the tax increase.

In computing the inventory tax, any discount allowed or allowable under Iowa Code section 453A.8 shall not be considered.

230.7(4) *Applicability.* The inventory tax is applicable only when there is an increase in the tax rate. Rule 701—231.9(453A) provides an explanation of whether a refund is allowable when there is a decrease in the tax rate.

This rule is intended to implement Iowa Code sections 453A.6, 453A.40, and 453A.43.

ITEM 2. Rescind and reserve **701—Chapter 254.**

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9039C

REVENUE DEPARTMENT[701]

Adopted and Filed

**Rulemaking related to cigarette tax and regulation of delivery sales of
alternative nicotine products or vapor products**

The Revenue Department hereby adopts new Chapter 231, “Cigarette Tax and Regulation of Delivery Sales of Alternative Nicotine Products or Vapor Products,” and rescinds Chapter 255, “Cigarette Tax and Regulation of Delivery Sales of Alternative Nicotine Products or Vapor Products,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 453A.8, 453A.15, 453A.24, 453A.25 and 453A.47C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 423A.

Purpose and Summary

The purpose of the rulemaking is to adopt new Chapter 231 and rescind and reserve Chapter 255. Chapter 255 contains rules on the Department’s interpretation of Iowa Code chapter 453A on the excise tax on cigarettes and the regulation of delivery sales of alternative nicotine and vapor products. The

Department determined that the rules aid the public understanding of this topic. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677 mandated, the adoption of new administrative rules. The Department determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics did not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department readopted the rules on the excise tax on cigarettes and the regulation of alternative nicotine and vapor products in new Chapter 231 in order to provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department revised the text of the rules for better organization and clarification and removed portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8734C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 701—Chapter 231:

CHAPTER 231

CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS

701—231.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E and rule 701—230.1(453A).

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.

701—231.2(453A) Permits required. Every person selling or distributing cigarettes or using or consuming untaxed cigarettes within the state of Iowa must first obtain the appropriate permit.

231.2(1) Distributor's permit. If a distributor performs any other function that requires a permit, a separate permit must be obtained. If a person is not performing the functions of a distributor, a permit will not be issued.

231.2(2) Wholesaler's permit. A “sale or distribution” of cigarettes connotes a transfer of cigarettes from one person or entity to another person or entity. Therefore, an intraentity transfer is not a transaction that qualifies as a function of a wholesaler. If a person is not performing the functions of a wholesaler, a permit will not be issued.

EXAMPLE: The XYZ Grocery Chain has a warehouse in Des Moines where stamped cigarettes are stored. The stamped cigarettes are purchased from a permitted distributor. XYZ transfers the cigarettes to its retail outlets across the state for the purpose of making retail sales and makes no other sales. The storage of stamped cigarettes and the retail sale of cigarettes are not functions of a wholesaler. Therefore, XYZ would not be eligible for a wholesaler's permit.

231.2(3) Cigarette vendor's permit. The duplicate permit applies to additional places of business from which the cigarette vendor conducts operations and not to those places of business where the cigarette vending machines are installed for retail sales.

EXAMPLE: A cigarette vendor owns three warehouses from which the vendor supplies cigarettes to 100 vending machines located at various retail establishments. The total permit cost for the vendor would be \$110 (\$100 for a regular permit plus \$10 for two duplicate permits at \$5 each).

231.2(4) Retail permits.

a. Location. Retail permits valid only for the location described in the permit and a retailer must obtain a separate permit for each place of business owned or operated by the retailer.

b. Local jurisdiction. The power to grant the retail permit is discretionary with the city council or board of supervisors, and uniform, nondiscriminatory limits may be placed on the issuance of the retail permit. The city or county must submit a copy of any retail permit issued within 30 days of issuance.

c. Mobile retailers. If a cigarette retailer sells cigarettes from a mobile concession vehicle, the vehicle itself is considered a place of business.

(1) If a retailer is selling cigarettes from a mobile concession vehicle within the area of several permit-issuing authorities, the retailer must obtain a permit from each authority.

(2) The retailer is operating a single place of business within the jurisdiction of the several authorities and is, therefore, subject to regulation by each.

(3) The location described on the permit shall include identification of the vehicle and the address of the permanent place of business from which the vehicle is dispatched. If the vehicle is traded in for a new vehicle, the exchange provisions of subrule 231.2(5) shall apply.

231.2(5) Exchange of permits. If a permittee changes the location of an operation requiring a permit but remains within the jurisdiction of the same entity that granted the original permit, the permittee may exchange the invalid permit (valid only for the location described in the permit) for a valid permit free of charge, without the partial payment-partial refund process described in Iowa Code section 453A.13(4).

EXAMPLE 1: City Bar and Grill sells cigarettes at retail and has obtained a retail cigarette permit from the city of Des Moines. The establishment is moved across the street but remains within the city limits of Des Moines. The retail permit is valid only for the location described in the permit, and therefore, the original permit is no longer valid. However, since the establishment has remained within the jurisdiction of the entity that granted the original permit, Des Moines, the original, presently invalid permit may be exchanged for a valid permit with a new location description at no cost.

EXAMPLE 2: Same as Example 1, except the new location of City Bar and Grill is outside the corporate limits of Des Moines and within the unincorporated area of Polk County. City Bar and Grill

would have to surrender the old permit to the city of Des Moines and obtain a new permit from Polk County with the schedules set forth in this rule applying.

This rule is intended to implement Iowa Code sections 453A.13, 453A.16, 453A.17, and 453A.23.

701—231.3(453A) Bond requirements.

231.3(1) The amount of the bond required for each permit shall be as follows:

- a. Distributor permit: \$2,500.
- b. Wholesaler permit: \$2,500.
- c. Vendor permit: \$1,000.
- d. Railway car retail permit: \$500.
- e. Manufacturer permit: \$5,000.
- f. Distributing agent permit: \$2,500.
- g. Retail permit: \$0.

231.3(2) If a person is required to obtain more than one type of permit, the bond requirements shall be cumulative and additional bonds or a single bond equal to the total aggregate requirements must be obtained. More information on the required form of the bond is contained in rule 701—230.4(453A).

This rule is intended to implement Iowa Code sections 453A.14, 453A.17, and 453A.23.

701—231.4(453A) Cigarette tax—attachment—exclusivity of tax—exemption.

231.4(1) *Attachment.* The fact that the tax is eventually paid will not relieve the person's standing prior in the chain of distribution of the sanctions for distributing untaxed cigarettes if the tax should have been paid sooner by said person.

231.4(2) *Exclusivity of tax.* No other occupation or excise tax may be imposed by any political subdivision of the state. However, this provision does not apply to occupation or excise taxes imposed by the state.

231.4(3) *Sales exempt from tax.*

a. *Generally.* Sales of cigarettes that the state is prohibited from taxing under the Constitution or the laws of the United States or under the Constitution of this state are exempt from the tax. If the sale is exempt from the tax, stamps must not be attached. No refund will be issued for stamps that are attached to cigarette packages that are later sold exempt.

b. *Sales to the federal government.* Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A nor pay the tax imposed thereunder. However, individuals who have purchased or obtained cigarettes from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.6(2), 453A.36(1), and 453A.37.

c. *Sales by or to Indians.* Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements of which they are tribal members are exempt from the tax. The Indian sellers are subject to the recordkeeping requirements of Iowa Code chapter 453A. The cigarettes must be purchased by the Indian seller with the tax included in the purchase price. The tax exemption is allowed to the Indian purchaser by the purchaser's filing a claim for refund of the tax paid or to the tribe of which the Indian purchaser is a member by the tribe's filing a claim for refund of the tax paid by the tribe on cigarettes sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.6.

701—231.5(453A) Cigarette tax stamps.

231.5(1) *Purchase of stamps from the department.* The stamps shall be sent to the purchaser through the United States Postal Service by registered mail or similar delivery service at the department's expense. The purchaser may request alternate methods of transmission, but such methods shall be at the expense of the purchaser. Regardless of the method used to send the stamps, title transfers to the purchaser at the time the department delivers the stamps to the carrier.

231.5(2) *Purchase of stamps from authorized bank.* The permittee shall furnish the bank with a requisition form prescribed by the department. The director may require such payments to be by cashier's check or certified check as to any individual distributor or manufacturer. The authorized bank

shall be notified in writing by the department of any such requirement. Distributors or manufacturers that elect to purchase stamps from authorized banks shall advise the department in writing of the authorized bank so elected. The distributor or manufacturer may not purchase from any other bank other than the one so selected but may still purchase stamps directly from the department. Rule 701—231.6(453A) provides more information on restrictions on the sale of cigarette tax stamps placed on authorized banks. Rule 701—231.9(453A) provides more information on refunds relating to cigarette tax stamps.

This rule is intended to implement Iowa Code sections 453A.6, 453A.7, 453A.8, 453A.10, 453A.28, and 453A.35.

701—231.6(453A) Banks authorized to sell stamps—requirements—restrictions.

231.6(1) *Authorization.* The director has the discretion to allow the sale or distribution of stamps through authorized banks as defined in Iowa Code section 524.103. The authorization of a bank to sell stamps is not a mandatory direction but may be utilized by the director to enhance the efficiency of the tax stamp distribution system. The director will consider the following nonexhaustive list of factors to determine whether or not to authorize a bank to sell stamps:

- a.* Geographical location in relation to distributors or manufacturers requesting alternative purchase locations,
- b.* The anticipated volume of stamps to be purchased by the requesting distributors or manufacturers,
- c.* Access to transportation systems, and
- d.* Prior experience with the bank.

231.6(2) *Sale of stamps.* An authorized bank may sell cigarette stamps only to distributors or manufacturers holding valid permits who have “elected” (as per subrule 231.5(2)) to purchase stamps from that bank. The department shall furnish each bank with a list of all such distributors or manufacturers who have so elected, and the bank shall not sell stamps to persons not on the list. The bank must receive payment in full, less the discount, before selling stamps. A bank is not authorized to accept credit memorandums from distributors or manufacturers.

231.6(3) *Stamp inventory.* Each bank shall keep an adequate inventory of stamps on hand to supply distributors or manufacturers assigned to said bank for at least six weeks. Stamps will be shipped freight prepaid to the bank from the department or from the supplier of the stamps. The supplier of the stamps shall advise the department at once by mail of a shipment to a bank and the bank shall advise the department at once by mail of the receipt of the stamps. Each bank shall store stamps in a secure vault.

231.6(4) *Reports and remittances.* Each bank authorized to sell stamps shall forward to the department the invoices, requisitions, and remittances for stamps sold on a daily basis. Each bank shall forward to the department, on the first working day of each month, an inventory report that shall minimally include as to the prior month: the quantity of stamps on hand at the beginning of the month, the quantity of stamps received during the month, the quantity of stamps sold as to each distributor or manufacturer, the quantity of stamps on hand at the end of the month and the signature of the person responsible for the stamps.

231.6(5) *Audit.* For the purpose of auditing for the end of the fiscal year, no bank shall sell cigarette stamps on the days from June 25 through June 30. With or without notice, the department or a representative designated by the department may take an inventory of stamps and audit stamp sales.

231.6(6) *Records.* Each bank must retain all records of inventory, stamp receipts, and stamp sales for a period of three years.

231.6(7) *Termination of authorization.* The director may terminate the authorization of a bank to sell stamps if the bank has failed to comply with the provisions of this rule or Iowa Code chapter 453A or if the director deems it desirable for the efficient distribution of stamps.

a. Notice of termination shall be sent to the bank by certified mail. The bank may appeal the termination determination by filing an appeal pursuant to 701—Chapter 7 within 30 days of notice of termination.

b. A bank may voluntarily terminate the sale of stamps by giving the department 90 days’ written notice.

c. Upon termination, the bank must immediately return all stamps and present a final accounting, along with any remittances, to the department.

This rule is intended to implement Iowa Code sections 453A.8, 453A.12, and 453A.25.

701—231.7(453A) Reports. Whenever “cigarette” is used in this rule, it also includes taxable “little cigars.”

231.7(1) *In-state distributors not exporting cigarettes.* Every distributor with a place of business in Iowa where cigarettes are stamped and that is not engaged in exporting cigarettes from this state shall submit any forms required by the department.

a. All required forms must be completed before the report will be considered “filed” and may require but not be limited to the following information:

- (1) Distributor’s name, permit number and address;
- (2) Amount of Iowa revenue purchased during the month;
- (3) Quantity of cigarettes on hand at the end of the month;
- (4) Amount of revenue on hand at the end of the month;
- (5) Purchases of cigarettes during the month and as to each purchase, the seller’s name, the date of purchase, the invoice number, and the quantity purchased;
- (6) An inventory report as to out-of-state revenue;
- (7) Quantity of cigarettes returned to the factory along with supporting documents;
- (8) Certification of the person responsible for making the report;
- (9) Inventory accounting for cigarettes; and
- (10) Inventory accounting for revenue.

b. The quantity of cigarettes distributed or stamped should be equal to the tax equivalent of the revenue used. Any discrepancy must be adequately explained.

231.7(2) *In-state distributors exporting cigarettes.* Every distributor with a place of business in Iowa where cigarettes are stamped that also engages in exporting cigarettes from this state shall file the forms required by the department. The forms must be complete before the forms will be considered filed.

231.7(3) *Out-of-state distributors.* Every distributor stamping cigarettes only without the state shall file the forms required by the department and shall include but not be limited to:

- a. The distributor’s name, address and permit number;
- b. An itemized statement of Iowa revenue purchased;
- c. An inventory accounting of Iowa revenue;
- d. A detailed schedule of cigarette distribution in Iowa and as to each distribution, the date, the name of purchaser or receiver, the purchaser’s address and the quantity of cigarettes distributed; and
- e. The certification of the person responsible for making the report.

231.7(4) *Manufacturers and other persons.* The monthly reports for manufacturers and other persons shall contain such information as the director deems necessary.

This rule is intended to implement Iowa Code section 453A.15.

701—231.8(453A) Manufacturer’s samples and replacement packages.

231.8(1) *Free samples.* Iowa Code section 453A.39 provides an exclusive method for manufacturers to distribute free sample packages of cigarettes or little cigars. In addition to the requirements under Iowa Code section 453A.39, the cigarettes or little cigars must also be clearly marked “sample” and contain an acknowledgment that the tax was paid on each carton containing free samples. The tax to be paid must be computed on a per cigarette basis rather than a per package basis.

231.8(2) *Distributor affidavit.* The department will stamp the distributor’s affidavit containing the remittance and return a copy of the affidavit to the distributor as the acknowledgment that taxes have been paid on the samples.

a. After receiving the acknowledgment, and before the sample cigarettes are distributed, each distributor is requested to stamp the cartons of free samples with a stamp containing the distributor’s name, permit number and the words “IOWA STATE TAX PAID.”

b. In the event the distributor needs acknowledgment sooner, the distributor may request that the department acknowledge by telephone and follow up with the affidavit acknowledgment at a later date.

c. In the event sample cigarettes must be returned to the manufacturer for some reason, a refund of the taxes previously paid will be made to the distributor that actually remitted the tax to the department. The refund will be made in the same manner as for regular cigarettes by the distributor filing the appropriate forms with the department.

231.8(3) Replacement packages. A manufacturer wants to respond to a customer complaint by replacing a package of 20 cigarettes purchased by the customer with another package of 20 cigarettes.

a. The replacement package must be clearly marked with the words “COMPLIMENTARY. NOT FOR SALE. ALL APPLICABLE STATE TAXES PAID.”

b. The manufacturer may pay the tax directly to the department by submitting an affidavit to the department containing the number of replacement packages sent into the state during the previous month, along with the remittance. The number of replacement packages and remittance may be submitted as part of the manufacturer’s affidavit required under Iowa Code section 453A.39.

This rule is intended to implement Iowa Code sections 453A.1, 453A.13, 453A.16, 453A.22, 453A.31, and 453A.39.

701—231.9(453A) Refund of tax—unused and destroyed stamps.

231.9(1) Refunds of unused stamps and destroyed stamps.

a. Refunds shall be issued for unused stamps that are returned to the department for any reason by a person entitled to receive a refund. This includes:

(1) Unused stamps unaffixed at the close of the business day next preceding the effective date of a decrease in the tax rate that are in excess of the unstamped cigarette inventory on hand as of that date.

(2) Stamps that are recalled by the director for purposes of effectuating a change of design of the stamps.

(3) Stamps that have been lost through destruction, since destroyed stamps have not been used. For purposes of this rule, destruction means destruction by fire, flood, other act of God as defined in 701—subrule 10.7(1), or other destruction not reasonably anticipated or foreseen and outside the control of the person seeking the refund. The claim for refund must be supported by proof of the fact of the loss and proof of the quantity of the loss. The claim must be filed within 30 days of the loss.

b. Refunds will not be issued for stamps that are lost (misplaced) or stolen because it is the distributor’s or manufacturer’s responsibility to maintain proper control over cigarette tax stamps.

c. Banks that are authorized to sell stamps or meter settings are not authorized to issue a refund; the stamps must be returned to the department and a refund will be issued only by the department.

231.9(2) Return of used stamps.

a. Refunds shall be issued for stamps that have been affixed to cigarettes that have become unfit for use or consumption or unsaleable. This refund is available to any permitted distributor or manufacturer upon proof that the cigarettes were returned to the manufacturer of the cigarettes.

b. The proof required shall be an affidavit from the distributor setting forth to whom the cigarettes were returned and verifying that cigarette stamps had been affixed thereto. An affidavit from the manufacturer to which the cigarettes were returned verifying the information must also be included.

231.9(3) Cigarettes that have been destroyed.

a. The tax shall be returned on cigarettes that have been destroyed after the tax stamps have been affixed to the person stamping the cigarettes. No refund is allowed for lost or stolen cigarettes.

b. The person claiming the loss must be able to prove the fact of the loss and quantity of the loss. The claim, on the form required by the department and accompanied by proof of the loss and proof of the quantity of the loss, must be filed with the department no later than 30 days following the date the loss occurred.

c. The amount of the refund shall be the face value of the stamps less the applicable discount allowed purchasers of tax stamps.

231.9(4) No credit in lieu of a refund. There are no statutory provisions to allow a credit in lieu of a refund of taxes paid for returned or destroyed cigarette stamps.

This rule is intended to implement Iowa Code section 453A.8.

701—231.10(453A) Delivery sales of alternative nicotine products or vapor products.

231.10(1) *Delivery sale permit for out-of-state retailers.* An out-of-state retailer that has applied and otherwise qualifies for a delivery sale permit will be issued the permit for the retailer's principal place of business.

231.10(2) *Sales and use tax permit.* A retailer holding a delivery sale permit must also have an Iowa sales or use tax permit. A retailer holding a delivery sale permit must collect and remit all Iowa sales and use tax due, including any applicable local option sales tax, on all sales in Iowa.

231.10(3) *Bond required.* A bond of \$1,000 is required to obtain a delivery sale permit.

231.10(4) *Prohibited delivery sales.* All delivery sales of cigarettes and tobacco products to consumers in Iowa are prohibited.

This rule is intended to implement Iowa Code sections 453A.47A, 453A.47B, and 453A.47C.

ITEM 2. Rescind and reserve **701—Chapter 255.**

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9040C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to tobacco tax

The Revenue Department hereby adopts new Chapter 232, "Tobacco Tax," and rescinds Chapter 256, "Tobacco Tax," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 453A.24, 453A.25, 453A.40, 453A.46, 453A.47A and 453A.49.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 453A.

Purpose and Summary

The purpose of this rulemaking is to adopt new Chapter 232 and rescind and reserve Chapter 256. Chapter 256 contained rules on the Department's interpretation of Iowa Code chapter 453A on the application and imposition of the excise tax on tobacco. The Department determined that the rules aid the public understanding of this topic. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345, and 2024 Iowa Acts, House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics did not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department proposes readopting the rules on the administration of the excise tax on tobacco and moving them into Chapter 232, which was previously reserved, in order to provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department proposes revisions to the text of the rules for better organization and clarification and to

remove portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8735C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 701—Chapter 232:

CHAPTER 232
TOBACCO TAX

701—232.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E and rule 701—230.1(453A).

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.

701—232.2(453A) Permits.

232.2(1) Generally. If the person holds a valid cigarette permit of any kind, the permit will be issued without cost if all other requirements for the permit are met, but the permit must still be obtained. A tobacco retailer is required to obtain a retail cigarette/tobacco permit.

232.2(2) Distributor permit.

a. Every person operating as a tobacco distributor as defined in Iowa Code section 453A.42 must obtain a tobacco distributor's permit.

b. In any distribution scheme whereby tobacco products are imported into this state for sale, there must be at least one distributor.

EXAMPLE 1: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. manufacturer's plant, both are performing the functions of a distributor; Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state, and Retailer, Inc. is causing tobacco products to be brought into this state from without the state for the purpose of sale. Therefore, at least one of the parties must obtain a distributor permit.

EXAMPLE 2: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. retailer's place of business, Manufacturer, Inc. is acting as a distributor and Retailer, Inc. is not. Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state. Retailer, Inc. is not causing tobacco products to be brought into this state from without the state. Therefore, in this example, Manufacturer, Inc. must obtain a distributor permit.

232.2(3) *Subjobber's permit.*

a. Every person, other than persons permitted as tobacco distributors, operating as a tobacco subjobber, as defined in Iowa Code section 453A.42, must obtain a tobacco subjobber's permit.

b. A single subjobber's permit is sufficient for the subjobber's entire activities within the state because it is not issued for each place of business.

This rule is intended to implement Iowa Code section 453A.44.

701—232.3(453A) Distributor bond.

232.3(1) *Generally.* A bond in the amount of \$1,000 is required to be posted before a distributor's permit can be issued, regardless of whether or not the distributor is permitted and bonded as a cigarette permittee.

232.3(2) *Aggregation.* If the distributor has a cigarette permit of any kind and is required to post a bond thereunder, the amount of the cigarette bond(s) and the tobacco bond(s) may be aggregated to reach a single bond requirement, and the distributor may provide a single bond in the aggregate amount provided the bond may be used to discharge either a cigarette tax liability or a tobacco tax liability. Rule 701—230.4(453A) provides more information about bonds.

This rule is intended to implement Iowa Code section 453A.44.

701—232.4(453A) Tax on tobacco products.

232.4(1) *Generally.* The tax on tobacco products is to be paid once, either upon distribution by a distributor or upon use or storage by a consumer. The tax is in addition to any occupation or privilege tax or permit fees imposed by any city or county.

232.4(2) *Distributor responsibility.* The tax as specified in Iowa Code section 453A.43(1)“a” is imposed when a distributor does any of the activities as listed in Iowa Code section 453A.43(1)“e.”

232.4(3) *Consumer responsibility.*

a. If the tax under Iowa Code section 453A.43(1) is not paid under the circumstances identified in Iowa Code section 453A.43(1)“e,” the consumer is responsible for the tax specified in Iowa Code section 453A.43(2) based upon the cost to the consumer of the tobacco products used or stored by the consumer.

b. The tax does not apply to the use or storage of tobacco products in the circumstances identified in Iowa Code section 453A.43(2)“e.”

c. The exceptions do not apply to tobacco products subject to the tax imposed upon distributors.

232.4(4) *Discounted tobacco products.*

a. Generally. A tobacco product sold by manufacturers to distributors that is discounted is taxed at the highest wholesale sales price for that product.

b. Discounted tobacco products. A tobacco product is discounted when, compared to an identical product on the price list, the tobacco product has a lower wholesale sales price.

(1) Tobacco products are identical if they are sold as the same package size on the price list, irrespective of whether such tobacco is flavored, adulterated, or mixed with any other ingredients; the price printed on the box; the manufacturer's suggested retail price provided to the retailer; the stock keeping unit or universal product code or similar codes used by the manufacturer; the type of packaging used; the name of the product as marketed; the geographic distribution; the target customer; or the length of the time of the promotion.

(2) The manufacturer's characterization of the tobacco product on the price list is a consideration to determine if a tobacco product is discounted, but it is not controlling.

(3) Examples of discounted tobacco products include but are not limited to prepriced cigars and reduced-price multipacks of tobacco products where the manufacturer sells an identical product on the price list at a higher wholesale sales price.

EXAMPLE 1: Manufacturer, Inc. sells XYZ Product cigars in 25-count packages as both a prepriced product and a regular-priced product. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for the prepriced product is listed as \$480 and the wholesale sales price for the regular-priced product is listed as \$605. The prepriced XYZ Product is a discounted cigar product and shall be taxed at the higher wholesale sales price of \$605.

EXAMPLE 2: Manufacturer, Inc. sells ABC Product cigars in 25-count packages. ABC Product is prepriced at \$.99 and \$1.19. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for ABC Product at \$.99 is listed as \$346 and the wholesale sales price for ABC Product at \$1.19 is listed as \$360. ABC Product cigars, at both prepriced price points, shall be taxed at the higher wholesale sales price of \$360.

EXAMPLE 3: Manufacturer, Inc. sells H Product cigarillos in two 30-count packages as prepriced products and as "save on two" products. Prepriced H Product includes 2/\$.99 and 2/\$1.49. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for H Product at 2/\$.99 is listed as \$190, the wholesale sales price for H Product at 2/\$1.49 is listed as \$207, and the wholesale sales price for H Product as "save on two" is listed as \$350. H Product cigarillos shall be taxed at the highest wholesale sales price of \$350.

EXAMPLE 4: Manufacturer, Inc. sells multipacks of J Product cigarillos. The J Product multipacks are sold as five-packs, and some of the five-packs are labeled as "five for the price of three." The wholesale sales price of the five-packs of J Product that are not labeled as discounted have a higher wholesale sales price than the five-packs of J Product that are labeled as "five for the price of three." The five-packs labeled as "five for the price of three" shall be taxed at the higher wholesale sales price of J Product five-packs that are not labeled as discounted.

This rule is intended to implement Iowa Code sections 453A.42(18) and 453A.43.

701—232.5(453A) Tax on little cigars. All provisions applicable to cigarettes concerning rate, imposition, payment method, reporting, and affixing of stamps apply equally to little cigars, as defined in Iowa Code section 453A.42. The tax on little cigars is to be paid on the purchase of stamps by cigarette distributors or cigarette manufacturers who hold valid permits.

This rule is intended to implement Iowa Code sections 453A.42 and 453A.43.

701—232.6(453A) Distributor returns.

232.6(1) Generally. Every distributor permitted under Iowa Code section 453A.44 must file monthly returns.

a. Due date. Returns are due no later than the 20th day of the month following the month covered by the return. For example, a return covering the month of May 2025 would be due no later than June 20th, 2025.

b. Remittances. Remittances for the amount due minus the applicable discount are to be included with the monthly returns.

c. Discount. Permitted tobacco distributors filing returns under Iowa Code section 453A.46 are entitled to deduct a discount equal to 3.5 percent from the remittance for the tax due. For example, if the amount of tax due was \$100, then the distributor would be entitled to deduct \$3.50 from the tax due and would remit \$96.50 to the department.

232.6(2) *In-state distributors.*

a. Permitted tobacco distributors with a place of business in Iowa must file the form(s) prescribed by the department as the monthly distributor return.

b. Return information. Information to be included in the return includes but is not limited to:

(1) Distributor's name, address, and permit number.
(2) An accounting of the acquisition of tobacco products subject to tax. For each acquisition, the return must provide:

1. Date received.
 2. Date and number of invoice.
 3. Seller information.
 4. Manufacturer's gross list price.
- (3) Claims for credit for any tobacco products destroyed, returned to manufacturer, or exported.
1. Claims for credit are to be completed on the form prescribed by the department.
2. Claims for credit may also be completed via GovConnectIowa.
(4) Certification of the person responsible for completing the return.

232.6(3) *Out-of-state distributors.*

a. Permitted tobacco distributors, with no place of business in Iowa, must file the prescribed form by the department as the monthly distributor return.

b. Return information. Information to be provided in the return includes but is not limited to:

- (1) Distributor name, address, and permit number.
(2) Accounting of sales of tobacco products in Iowa that are subject to tax, including:
1. Date of sale.
2. Invoice number.
3. Purchaser name and address.
4. Manufacturer's gross list price.
(3) Certification of the person responsible for completing the return.

This rule is intended to implement Iowa Code sections 453A.46 and 453A.47.

701—232.7(453A) Credits and refunds of taxes. Credits for tobacco products destroyed, returned to manufacturers, or exported are provided for in subrule 232.6(1). If the credits exceed the average monthly tax liability of the distributor, based upon the prior 12 tax periods, a refund may be issued.

Credits and refunds to a consumer who paid the tax pursuant to Iowa Code section 453A.43(2) are allowed for the same reasons and upon the same basis as credits and refunds to distributors.

This rule is intended to implement Iowa Code section 453A.47.

701—232.8(453A) Consumer's return.

232.8(1) *Generally.* Consumers or any person who is not a permitted tobacco distributor who obtains or possesses tobacco products on which the tax under Iowa Code section 453A.43 has not been paid is responsible for reporting and remitting tax on those tobacco products. Consumers must file a distributor tax return for any month the person is responsible for paying the tax.

232.8(2) *Due date.* Returns are due no later than the 20th day of the month following the month covered by the return. For example, if the return is covering the month of April 2025, the return is due no later than May 20, 2025.

232.8(3) *Manner of return.* Returns are to be completely filled out, excepting that the consumer will not have a permit number and so should indicate on the form that the permit number is not applicable to them.

- a. The full amount of tax due must accompany the return when filed.
- b. The discount provided under Iowa Code section 453A.46(1) for permitted distributors does not apply to consumers.

c. Returns can be filed electronically via GovConnectIowa or mailed to the department.

232.8(4) Penalties. Penalties provided in Iowa Code section 453A.46 for permitted distributors apply equally to consumers required to file a return.

This rule is intended to implement Iowa Code sections 453A.43, 453A.46, and 453A.49.

701—232.9(453A) Transporter's report.

232.9(1) Generally. All transportation of tobacco products into this state is to be reported to the director within 30 days of the importation.

232.9(2) Reports. Reports are to include but not to be limited to the following information:

- a. Description of the products imported,
- b. Name and address of seller or consignor,
- c. Date of import,
- d. Name and address of purchaser or consignee,
- e. Point of origin,
- f. Point of destination.

232.9(3) Out-of-state distributors. Permitted tobacco distributors that have a place of business outside of the state where tobacco products are shipped from do not need to file a separate transportation report permit. This information will be included within the distributor reports filed by the distributor.

232.9(4) Common carriers. Common carriers transporting tobacco products into this state need only report shipments to places other than public warehouses permitted under the provisions of Iowa Code chapter 554. Transporter reports filed by common carriers are due no later than the tenth day following the month of importation. For example, if a common carrier transported tobacco products during August 2025, its transporter report is due no later than September 10, 2025.

232.9(5) Other transportation. All other transportation of tobacco products into this state by persons other than out-of-state distributors and common carriers is to be reported to the department except:

- a. The importation of tobacco products by a consumer in sufficiently small quantities to be exempt from the tax as identified in Iowa Code section 453A.45(5), or
- b. The importation by a consumer of tobacco products if the consumer is responsible to report and pay the tax under Iowa Code sections 453A.43(2) and 453A.46(6).

This rule is intended to implement Iowa Code section 453A.45.

701—232.10(453A) Free samples. Persons responsible for the distribution of samples of tobacco products in the state are responsible for paying the amount of tobacco tax due on those samples and filing a return. The tax due is based on the usual wholesale price of these products.

This rule is intended to implement Iowa Code sections 453A.43, 453A.46, and 453A.49.

701—232.11(453A) Sales exempt from tax.

232.11(1) Sales to the federal government.

a. Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A or pay the tax imposed thereunder.

b. Individuals who have purchased or obtained tobacco products from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.43(2) and 453A.50.

232.11(2) Sales by or to Indians.

a. Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements of which they are tribal members are exempt from the tax.

b. Indian sellers are subject to the recordkeeping requirements of Iowa Code chapter 453A.

c. Tobacco products are to be purchased by the Indian seller with the tax included in the purchase price.

d. The tax exemption is allowed to the Indian purchaser by the purchaser's filing a claim for refund of the tax paid or to the tribe of which the Indian purchaser is a member by the tribe's filing a claim for refund of the tax paid by the tribe on tobacco products sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.43(4).

ITEM 2. Rescind and reserve **701—Chapter 256**.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9041C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to unfair cigarette sales

The Revenue Department hereby adopts new Chapter 233, "Unfair Cigarette Sales," and rescinds Chapter 257, "Unfair Cigarette Sales," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 421B.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 421B.

Purpose and Summary

The purpose of this rulemaking is to adopt new Chapter 233 and rescind and reserve Chapter 257. Chapter 257 contained rules on the Department's interpretation of Iowa Code chapter 421B on unfair cigarette sales and the minimum pricing of cigarettes that works in conjunction with the excise tax on cigarettes found in Iowa Code chapter 453A. The Department determined that the rules aid the public understanding of this topic. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics did not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department readopted the rules on unfair cigarette sales and minimum pricing of cigarettes and moving the rules into Chapter 233, which was previously reserved, in order to provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department revised the text of the rules for better organization and clarification and removed portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8736C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 701—Chapter 233:

CHAPTER 233
UNFAIR CIGARETTE SALES

701—233.1(421B) Definitions. For purposes of this chapter, terms and phrases have the same meaning as defined in Iowa Code section 421B.2.

This rule is intended to implement Iowa Code section 421B.2.

701—233.2(421B) Minimum price.

233.2(1) *Cost to retailers or cost to wholesalers.* The “cost to the retailer” and “cost to wholesaler” are defined in Iowa Code section 421B.2. The formulas for determining the cost to a wholesaler or retailer are not conclusive. The retailer, wholesaler, or the department may prove that the cost is either higher or lower.

233.2(2) *Proving higher or lower than statutory presumption.*

a. The statutory presumptive cost must be used in determining minimum price until approval of the request to utilize another figure is granted by the department. If the requester continues to sell cigarettes at less than the presumptive cost, the department may revoke the requester's permit or seek an injunction pursuant to Iowa Code section 421B.10 to prevent such action.

b. Any wholesaler or retailer who desires to prove that the wholesaler's or retailer's cost is less than the statutory presumptive cost computed according to Iowa Code chapter 421B may submit a petition for approval of a lower cost along with actual cost data to the department.

c. Any requester making sales of cigarettes in or into Iowa for more than 12 months shall submit cost data for the 12-month period ending no more than 30 days prior to the submission of the petition. Any requester making sales of cigarettes in or into Iowa for less than 12 months shall submit cost data

for the period beginning with the start of business and ending no more than 30 days prior to the submission of the petition.

d. The department will notify the wholesaler or retailer of the acceptance or rejection of the petition. If the requester disagrees with the department's determination, the requester may file an appeal within 60 days of the department's decision in accordance with provisions of the "appeals" rule contained in 701—Chapter 7.

233.2(3) *Costs of doing business.*

a. Costs of doing business include but are not limited to freight charges, labor, and equipment costs to affix stamps, ink, glue, permit fees, management fees, labor costs (including salaries of officers), rents, depreciation, selling costs, maintenance expenses, interest expenses, delivery costs, taxes, insurance, advertising expenses, and any other operational and administrative costs. The requester shall set forth the basis for allocated costs.

b. When the computed cost amounts to any fractional part of a cent, the cost must be rounded up to at least the next higher whole cent.

c. Sales made between wholesalers as provided for in Iowa Code section 421B.5, sales described in Iowa Code section 421B.6, and sales outside of the ordinary channels of trade as provided in Iowa Code section 421B.9 shall not be required to adhere to the minimum pricing requirements set forth in Iowa Code section 421B.3 and this rule.

233.2(4) *Discounts.* For purposes of determining the basic cost of cigarettes for wholesalers or retailers, trade or cash discounts may be deducted, if available, even though not taken. The discount taken or available must be clearly specified on the invoice or it will not be allowed as a reduction in the basic cost of cigarettes. Any financial incentive given to a wholesaler or retailer by a manufacturer at a later date will not reduce the basic cost of cigarettes.

233.2(5) *Example.* The following example will demonstrate the application of Iowa Code chapter 421B and this rule.

Per thousand cigarettes:

Manufacturer cost	\$149.9500
Minus 2% discount	- 2.9990
Plus ½ of the tax	<u>+ 34.0000</u>
	=
Basic cost of cigarettes	\$180.9510
Plus 4% of basic cost	<u>+ 7.2380</u>
	=
Retailer's basic cost	\$188.1890
Plus ½ of the tax	<u>+ 34.0000</u>
Per 1,000 cigarettes: Wholesaler Minimum	=
price to retailer	\$222.1890
Per carton (10 packs of 20 cigarettes):	
Wholesaler Minimum Price to Retailer	\$44.44
Minus ½ state tax	- <u>6.80</u>
Retailer's basic cost	\$37.6400
Plus 8% of basic cost	+ 3.0112
Plus ½ of state tax	<u>+ 6.8000</u>
	=
Minimum cost per carton to retailer	\$47.4600
	\$4.75/
Per pack	pack

This rule is intended to implement Iowa Code sections 421B.2, 421B.3, 421B.5, 421B.6 and 421B.9.

701—233.3(421B) Combination sales.

233.3(1) *Additional items sold with cigarettes.* Whenever cigarettes and another item are offered for sale at a total combined price, the sales price shall not be lower than the “cost to wholesaler” or “cost to the retailer” of all articles sold. The “cost to wholesaler” or “cost to the retailer” of all of the articles sold on a combined basis is determined under Iowa Code section 421B.2(1), 421B.2(3), and 421B.2(4).

233.3(2) *Promotional gifts.* If a promotional gift is given to the wholesaler or retailer by a cigarette manufacturer at no cost, which gift is to be given to consumers at no cost upon the sale of cigarettes, the minimum sales price will not be affected. The invoice cost of the promotional gift is zero, and therefore, the “cost to wholesaler” or “cost to the retailer” of the promotional gift is zero. If, however, the wholesaler or retailer were to purchase items to be given away with the purchase of cigarettes by consumers, the minimum sales price would increase. The “cost to wholesaler” or the “cost to the retailer” of the promotional item would be based upon the lower of invoice cost or replacement cost.

This rule is intended to implement Iowa Code section 421B.4.

701—233.4(421B) Retail redemption of coupons. The redemption of coupons by retailers, which coupons were supplied to consumers by manufacturers and will be redeemed from the retailers by the manufacturers, does not affect the minimum sales price of cigarettes. The retailer is still receiving the statutory minimum price even though that price is paid by two different persons, the consumer and the manufacturer. Manufacturer incentives to the consumer in lieu of a coupon that reduce the cost of the cigarettes to the consumer do not affect the minimum sales price of cigarettes when the manufacturer absorbs the loss for the incentive.

This rule is intended to implement Iowa Code section 421B.3.

701—233.5(421B) Promotions using cigarettes, noncigarettes, or coupons.

233.5(1) *Promotions using cigarettes, noncigarettes or coupons generally.* Promotional situations are specifically covered by Iowa Code section 421B.4. A promotional situation as described in Iowa Code section 421B.4 is valid provided it is a promotion scheme complying with the procedural requirements that it be a sale.

233.5(2) *Promotion using cigarettes.* If a manufacturer wants to run a promotion where two packs of cigarettes are sold for the price of one, the manufacturer could give the complimentary cigarettes to a distributor to be stamped that would then give the complimentary cigarettes to a retailer who gives the complimentary cigarettes away with the purchase of another pack. Provided the distributor is reimbursed for the cost of the tax stamps, there is no violation of Iowa Code chapter 421B by anyone. The following example illustrates what a manufacturer can do.

EXAMPLE: A manufacturer ships packs of 20, free of charge, to a permitted distributor with instructions to stamp them and send them to retail outlets or deliver them to one of the manufacturer’s employees. The manufacturer reimburses the distributor for the cost of stamping the cigarettes. The manufacturer sends or furnishes instructions and display materials to retailers for the retail distribution of the cigarettes. This method of distribution would be proper.

The cost provisions of Iowa Code section 421B.4 would not prevent the distribution of cigarettes in this example since Iowa Code section 421B.4 is silent with respect to below cost combination sales by manufacturers. The cost of cigarettes that are sold is controlled by Iowa Code section 421B.2. The cigarettes sold under the “buy one” portion of the promotion will have a cost of the lower of the true invoice or the lowest replacement cost. The cigarettes sold under the “get one free” portion of the promotion and that were obtained free of charge will have no invoice cost to the retailer.

233.5(3) *Promotions using noncigarette items.* A manufacturer wants to give away promotional items with the purchase of cigarettes at the regular price. Since Iowa Code section 421B.4 is silent with respect to below cost combination sales by manufacturers, the practice of the manufacturer providing a gift item, such as cigarette lighters, through wholesale channels to retailers that will be delivered to the customer at the time of the sale of the cigarettes does not violate Iowa Code chapter 421B.

233.5(4) *Coupons.* A manufacturer distributes coupons to the general public to allow the purchase of cigarettes at a reduced price. Provided it is the manufacturer who absorbs the entire cost of the

reduction in price, there would be no violation of Iowa Code chapter 421B. Coupons that are sent to the final consumer to be redeemed by a retailer that is reimbursed by a manufacturer do not violate Iowa Code chapter 421B. This would be true even though the coupon represented the full price of the cigarettes.

This rule is intended to implement Iowa Code chapter 421B.

701—233.6(421B) Notification of manufacturer’s price increase. For purposes of determining the “cost to the retailer” and the “cost to wholesaler,” all manufacturers dealing with Iowa permittees shall notify the department in writing within five working days of the effective date of any change in the manufacturer’s list price for cigarettes.

This rule is intended to implement Iowa Code sections 421B.8 and 421B.11.

701—233.7(421B) Sanctions for violations.

233.7(1) Civil penalties. Violations of Iowa Code chapter 421B and this chapter will result in penalties as identified in Iowa Code section 421B.3.

233.7(2) Permit revocation or suspension generally. The department may revoke or suspend any permit issued under Iowa Code chapter 453A, subchapter I, for any violation of Iowa Code chapter 421B. The authority to revoke or suspend a retail cigarette permit for a violation of Iowa Code chapter 421B rests in the department even though the permit was issued by a city or county. The revocation or suspension shall be effectuated under the provisions of the “contested case proceedings” and “licenses” rules contained in 701—Chapter 7.

233.7(3) Waiting period. Once the permit is revoked or suspended, the permittee cannot obtain another cigarette permit, nor may a permit be issued for the location covered by the revoked or suspended permit, regardless of the identity of the applicant, for a period of at least six months.

This rule is intended to implement Iowa Code section 421B.11.

ITEM 2. Rescind and reserve **701—Chapter 257.**

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9042C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to tobacco master settlement agreement

The Revenue Department hereby adopts new Chapter 234, “Tobacco Master Settlement Agreement,” and rescinds Chapter 258, “Tobacco Master Settlement Agreement,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 453C.1(10), 453D.5(5) and 453D.7(3).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 453C and 453D.

Purpose and Summary

The purpose of this rulemaking is to adopt new Chapter 234 and rescind and reserve Chapter 258. Chapter 258 contains rules required or necessary to ascertain the amount of excise tax paid on cigarettes

sold by participating and nonparticipating tobacco manufacturers in Iowa each year and ensure tobacco product manufacturers comply with the Master Settlement Agreement (MSA). The rules also establish provisions for escrow accounts and provide for periodic compliance reports. Iowa's model directory and escrow statutes, and corresponding rules, are required to conform to the MSA. All settling states have enacted qualifying statutes. Violations of the model statutes threaten the integrity of the MSA, the fiscal soundness of the State, and the public health. The Department determined the rules are necessary and aid the public's understanding about what is required of tobacco product manufacturers under the MSA.

However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics did not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department readopted the rules on the excise tax paid on cigarettes sold by participating and nonparticipating tobacco manufacturers in Iowa and tobacco product manufacturer compliance with the MSA in new Chapter 234. Moving the rules from Chapter 258 to Chapter 234 provides the public with easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department revised the text of the rules for better organization and clarification and removed unnecessary, obsolete, and duplicative statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8737C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 701—Chapter 234:

CHAPTER 234
TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I
TOBACCO MASTER SETTLEMENT AGREEMENT

701—234.1(453C) National uniform tobacco settlement and definitions.

234.1(1) Purpose. In 1998, the state of Iowa joined a multistate agreement with cigarette manufacturers called the Master Settlement Agreement (MSA). Subsequent to entering into that agreement, in 1999 the Iowa general assembly enacted Iowa Code chapter 453C that requires the department to promulgate regulations to ascertain the amount of excise tax paid on cigarettes sold by nonparticipating tobacco product manufacturers in Iowa each year.

234.1(2) Definitions. For the purposes of this chapter, the definitions set forth in Iowa Code section 453C.1 apply.

701—234.2(453C) Annual report.

234.2(1) Filing. A report must be filed by tobacco products distributors, cigarette distributors, and persons who sell tobacco products at retail that were purchased from a person who is not required to file a distributor report.

234.2(2) Annual reporting. The report must be filed annually on or before the last day of the month following the close of the calendar year in which the sales were made and must be in a form and manner prescribed by the department. The reports must be submitted electronically via GovConnectIowa.

234.2(3) Report information. The report must include the following information with respect to units sold that were not purchased from a participating tobacco product manufacturer or units sold that were purchased from a participating tobacco product manufacturer but are not units sold as covered by the MSA:

- a. Number of units sold.
- b. Brand of the units sold.
- c. Name and address of the person from whom each unit was purchased.
- d. Name and address of the manufacturer of the unit, if known.
- e. Name and address of the importer of the unit, if known, and whether that importer is the exclusive importer of the unit, if known.

234.2(4) Other reporting. A retailer may need to file a report when purchasing roll-your-own tobacco or cigarettes over the Internet, through a catalog from a vendor located outside of Iowa, from an Indian tribe or from an enrolled member of an Indian tribe located on a reservation in or outside Iowa, by mail order, or from a vendor located in another state.

234.2(5) Reporting purchases from participating tobacco product manufacturer. A retailer must also, upon request by the department, report information with respect to units sold that were purchased from any participating tobacco product manufacturer.

701—234.3(453C) Recordkeeping. Every person who sells at retail tobacco products purchased from a person who is not required to file a report required by this chapter, and every tobacco products distributor and cigarette distributor subject to this reporting rule, must maintain complete and accurate records and underlying documentation for five years to support the data required to be supplied to the

department under rule 701—234.2(453C). Upon request, all requested records and documents must be provided to the department.

701—234.4(453C) Disclosure to attorney general permitted. The department may disclose any and all information filed pursuant to rule 701—234.2(453C) to the attorney general for use in enforcing compliance with Iowa Code chapter 453C.

These rules are intended to implement Iowa Code chapter 453C.

DIVISION II
TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

701—234.5(453D) Purpose and definitions.

234.5(1) Purpose. Violations of Iowa Code chapter 453C threaten the integrity of the tobacco MSA, the fiscal soundness of the state, and the public health. In 2003, the general assembly enacted Iowa Code chapter 453D to establish procedural enforcement enhancements to aid in the enforcement of Iowa Code chapter 453C.

234.5(2) Definitions. For purposes of this division, the definitions set forth in Iowa Code section 453D.2 apply.

701—234.6(453D) Directory of tobacco product manufacturers.

234.6(1) Directory of cigarettes approved for stamping and sale in Iowa.

a. A tobacco product manufacturer and a brand family shall not be included in the directory authorized by Iowa Code section 453D.3 after April 30 each year until and unless the tobacco product manufacturer has provided current and accurate certification conforming to the requirements of Iowa Code section 453D.3.

b. Nonparticipating manufacturers and their brand families shall not be included in the directory after April 30 each year until and unless the attorney general has determined that the nonparticipating tobacco product manufacturer is in full compliance with Iowa Code section 453D.3 and that neither Iowa Code section 453D.3(2)“b”(1) nor 453D.3(2)“b”(2) applies to the nonparticipating tobacco product manufacturer or a brand family it seeks to have included in the directory.

c. A tobacco product manufacturer or brand family shall be deleted from the directory if a determination is made by the attorney general that the tobacco product manufacturer no longer meets the requirements of Iowa Code section 453D.3, or that either Iowa Code section 453D.3(2)“b”(1) or 453D.3(2)“b”(2) applies.

234.6(2) Notice of inclusion in directory. The attorney general shall notify a tobacco product manufacturer by mail that the tobacco product manufacturer has met the requirements of Iowa Code section 453D.3 and will be included in the directory. This notice shall include each brand family that the attorney general determines will be included in the directory.

234.6(3) Notice of noninclusion in or deletion from the directory. Tobacco product manufacturers that have applied for inclusion in the directory shall be notified in writing of a decision made by the attorney general not to include in or to delete from the directory the tobacco product manufacturer or a brand family. Such notice shall be served on the tobacco product manufacturer's agent for service of process by certified mail.

234.6(4) Procedure for contesting notice of noninclusion or deletion.

a. **Appeals.** A tobacco product manufacturer that disagrees with a decision made by the attorney general in relation to the directory may contest the validity of the decision within 60 days of the date of the decision by filing an appeal of that decision with the department. Appeals shall conform generally to the requirements of the “appeals” rule contained in 701—Chapter 7 to the extent applicable. The appeal will, thereafter, be processed and a contested case hearing will be held in general conformity with the requirements of the “filings with the department” and “service by the department” subrules contained in 701—Chapter 7; the requirements of the “docket,” “answer,” “commencement of contested case proceedings,” “discovery,” and “prehearing conference” rules contained in 701—Chapter 7; the

requirements of the “orders” subrule contained in 701—Chapter 7; and the requirements of the “record and transcript,” “application for rehearing,” and “ex parte communication and disqualification” rules contained in 701—Chapter 7 to the extent applicable. The burden of proof shall be on the tobacco product manufacturer to establish that the tobacco product manufacturer or a particular brand family is entitled to be listed in the directory.

b. Orders. The form, status, finality and appealability of orders shall be controlled by the general provisions of the “orders” subrule contained in 701—Chapter 7, except that no appeal to, or motion of, any other agency is authorized. All parties to the contested case may appeal any orders entered in relation to the contested case.

c. Stays and bonds. Stays of the decision of the attorney general during the pendency of the contested case proceedings and judicial review of the final contested case order of the department may be sought under the requirements of the “stays” subrule contained in 701—Chapter 7. However, the addition or retention of a tobacco product manufacturer or brand family in the directory shall not be ordered during the pendency of the contested case proceedings and judicial review of the final contested case order unless a sufficient bond has been provided to the attorney general to ensure that all escrow amounts owed at the time of bonding and all escrow amounts reasonably expected to become due during the pendency of the contested case and all related appeals will be satisfied if the tobacco product manufacturer does not ultimately prevail in its challenge. Such bonds shall be subject to update on a quarterly basis on motion of the attorney general.

d. Forfeiture of bond. If a claim is made that a particular entity is the tobacco product manufacturer, the entity obtains an order allowing the entity and any of the brands the entity claims to be responsible for to be listed in the directory pending final resolution of the entity’s status, and it is ultimately determined that the entity is not the tobacco product manufacturer, the required bond is forfeited to the state.

These rules are intended to implement Iowa Code chapter 453D.

ITEM 2. Rescind and reserve **701—Chapter 258**.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9044C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to administration of marijuana and controlled substance stamp tax

The Revenue Department hereby adopts new Chapter 240, “Administration of Marijuana and Controlled Substances Stamp Tax,” and rescinds Chapter 269, “Administration of Marijuana and Controlled Substances Stamp Tax,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 453B.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 453B.

Purpose and Summary

The purpose of this rulemaking is to adopt a new Chapter 240 and rescind and reserve Chapter 269. Chapter 269 contains rules on the Department's interpretation of Iowa Code chapter 453B on the application and imposition of the excise tax on unlawful dealing in certain substances. The Department determined these rules aid the public's understanding on this topic. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department determined that the current placement of the administrative rules on cigarette and tobacco-related and adjacent topics did not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules. Further, the Department determined that for ease of use and accessibility for the public, the rules on this excise tax should be placed close to the rules on the cigarette- and tobacco-related excise taxes.

Therefore, the Department readopted and moved the rules on the administration of the excise tax on marijuana and controlled substance stamp tax into Chapter 240, which was previously reserved. The Department revised the text of the rules for better organization and clarification and removed portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8738C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 701—Chapter 240:

CHAPTER 240
ADMINISTRATION OF MARIJUANA AND
CONTROLLED SUBSTANCES STAMP TAX

701—240.1(453B) Marijuana and controlled substances stamp tax.

240.1(1) Definitions. For purposes of this chapter, words and terms have the same meanings as defined in Iowa Code section 453B.1.

240.1(2) Purchases of stamps.

a. Location. Stamps that are capable of being affixed to taxable substances are offered for sale to members of the public by the department during normal business hours at the rates set in Iowa Code section 453B.7. The stamps are sold at the Hoover State Office Building, First Floor, Des Moines, Iowa, and at other locations as may be designated by the director or may be purchased by mail.

b. Payment. Payment for stamps is accepted in the form of cash, cashier's check, or money order. Personal checks are not accepted.

c. Minimum purchase. The stamps are issued in the denominations requested by the purchaser so long as the minimum purchase price set in Iowa Code section 453B.8 is met. Also, the denomination of individual stamps cannot be less than the price for ten dosage units, multiples of ten dosage units, one whole gram, or multiples of one gram even if the stamp will be affixed to a package containing less than ten dosage units or multiples thereof, or only a portion of one gram or multiples thereof.

240.1(3) Types of stamps. Four different stamps are offered for sale:

- a.* Stamp for a substance consisting of or containing processed marijuana,
- b.* Stamp for taxable substances other than marijuana that are sold by weight,
- c.* Stamp for taxable substances other than marijuana that are not sold by weight, and
- d.* Stamp for each unprocessed marijuana plant.

240.1(4) Validity. The stamps are valid for a period of six months from the date of issuance. Stamps contain a statement that the stamps expire after six months from the date of issue. A stamp is "unused" and expires if it has not been affixed to taxable substances within six months of the date of issue.

240.1(5) Identification not required. Persons purchasing stamps are not required to provide identification, such as their name or address, when purchasing stamps.

701—240.2(453B) Refunds pertaining to unused stamps.

240.2(1) Refund date. At any time up to 30 days after the expiration date as indicated on the stamp, any unused stamp may be returned to the department and a refund requested in accordance with Iowa Code section 453B.14 and these rules.

240.2(2) Refund information.

a. Persons seeking a refund for an unused stamp must provide a name in which a refund can be made. However, refund information is confidential under Iowa Code section 453B.10.

b. If granted, the refund in the form of a warrant may, at the request of the refund claimant, either be picked up in person from the department at the Hoover State Office Building, Des Moines, Iowa, during normal business hours, or sent by mail to an address designated by the refund claimant.

These rules are intended to implement Iowa Code chapter 453B.

ITEM 2. Rescind and reserve **701—Chapter 269.**

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9034C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rulemaking related to vehicles subject to registration**

The Revenue Department hereby rescinds Chapter 250, “Vehicles Subject to Registration,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 321.105A(4).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.105A.

Purpose and Summary

The purpose of this rulemaking is to rescind Chapter 250 and adopt new Chapter 250 on vehicles subject to registration. These rules describe the Department’s interpretation of the underlying statute to help the public understand the one-time fee for new registration for vehicles in Iowa. The Department revised the chapter to remove portions of the rules that the Department determined are obsolete, unnecessary, or duplicative of statutory language as required by Executive Order 10. Further, the Department revised the chapter to add clarity to aid the public’s understanding of the vehicle fee for new registration.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8727C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 2025

No one attended the public hearings.

Public comment was received addressing a mistyped identifier found under subrule 250.17(2) in Example B that stated “Person C” instead of “Person Q.” The Department corrected this error. One other change was made to remove a reference to 2024 Iowa Acts, House File 644, since that legislation has been codified.

Adoption of Rulemaking

This rulemaking was adopted by the Department on February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 250 and adopt the following **new** chapter in lieu thereof:

CHAPTER 250
VEHICLES SUBJECT TO REGISTRATION

701—250.1(321) Definitions.

“Dealer” means the same as defined in Iowa Code section 321.1(17).

“Directly and primarily used” means the same as described in rule 701—215.15(423).

“Optional service agreement” means an arrangement to prepay or pay for a predetermined price for future vehicle services, including but not limited to oil changes and tire rotation.

“Recycling” means the same as defined in 701—paragraph 215.19(2) “a.”

“Regular course of business” means the activities that a person normally engages in as part of managing the person's trade or business. If referring to a dealer licensed under Iowa Code section 322.7, “regular course of business” further includes only the make or makes of new vehicles listed on the dealer's license.

“Single-member LLC” means a limited liability company (LLC) of which income is reported on Schedule C of the owner's personal income tax return. A single-member LLC shall be treated as a sole proprietorship.

“Vehicle protection package” means services including but not limited to exterior paint protection; interior fabric, leather, and vinyl protection; rust proofing; and undercoating that are purchased at the time the vehicle is purchased.

“Vehicle subject to registration” means any vehicle subject to registration pursuant to Iowa Code section 321.18.

This rule is intended to implement Iowa Code section 321.105A.

701—250.2(321) Purchase price.

250.2(1) Exclusions. “Purchase price” means the same as defined in Iowa Code section 321.105A(2) “a” and does not include:

- a. Cash discounts.
- b. Allowances for the trade-in of a vehicle subject to registration, as further outlined in rule 701—250.3(321).
- c. Gasoline, if separately itemized.
- d. Fees imposed by the dealer for document processing, including but not limited to those commonly known as “doc fees.”
- e. Any manufacturer's cash rebate to a purchaser that is applied to the purchase price of a vehicle.
- f. Optional service agreements, if separately itemized.
- g. Vehicle protection packages, if separately itemized.
- h. Amounts listed under Iowa Code section 423.1(51) “b.”

250.2(2) Inclusions. “Purchase price” includes but is not limited to the following, if valued in money even if not paid in money:

- a. Accessories.
- b. Additional equipment.
- c. Services.
- d. Freight and manufacturer's tax, valued in money.
- e. In-kind compensation.
- f. Amounts listed under Iowa Code section 423.1(51) "a."

EXAMPLE: Person A is a shareholder and employee in Corporation. In the months of April through November, Person A worked a substantial amount of overtime. In December, Corporation allowed Person A to choose whether to be paid for the overtime by receiving additional wages or by taking title to a corporate vehicle. Person A chose to take the vehicle, and Corporation transferred the title of the vehicle to Person A. The transfer of the vehicle to Person A was "in-kind" compensation paid by Corporation to Person A for the overtime hours worked. This compensation constitutes consideration. The fee for new registration is due on the amount of overtime pay that would be due had Person A opted to be paid.

250.2(3) Documentation. A bill of sale, or equivalent documentation, is required to establish purchase price. The bill of sale, or equivalent documentation, must be signed by the seller. The county treasurer, department of transportation, or department may require additional or alternative documentation as necessary to sufficiently establish purchase price.

250.2(4) Fee collection. If there is doubt about a purchase price, the county treasurer or the department of transportation will collect the fee. A claim for refund may be filed by the taxpayer if the taxpayer believes the fee has been erroneously collected.

This rule is intended to implement Iowa Code section 321.105A.

701—250.3(321) Trades.

250.3(1) Trades, generally.

a. A trade-in allowance is excluded from the purchase price if the requirements of Iowa Code section 321.105A(2) "a"(2) are met.

EXAMPLE A: Person D has an automobile with a value of \$5,000. Person E also has an automobile valued at \$5,000. They decide to trade automobiles. Person D and Person E make an even trade, automobile for automobile, with no money changing hands. The fee for new registration is not due on either automobile because the exchange is even in value.

EXAMPLE B: Person B has an automobile with a value of \$2,000. Person C has an automobile valued at \$3,500. Person B and Person C decide to trade automobiles. Person B pays Person C \$1,500 in cash for the difference in value. Person B will pay the fee for new registration on \$1,500. Person C will not pay the fee for new registration because the trade-in allowance reduces the purchase price to \$0.

EXAMPLE C: Person F has an automobile with a value of \$5,000. Person G has an automobile valued at \$3,000 and a forklift valued at \$2,000. They decide to trade these three items. An even trade is made, Person F's automobile in exchange for Person G's automobile and forklift, with no money changing hands. The forklift is not a vehicle subject to registration. Thus, Person G cannot receive a trade-in allowance for the forklift against the \$5,000 purchase price of Person F's automobile. Person G will, however, receive a trade-in allowance on the value of the automobile, a vehicle subject to registration. Therefore, Person G will pay a fee for new registration on \$2,000. Person F will not pay the fee for new registration because the trade-in allowance reduces the purchase price to \$0.

b. Unless otherwise excluded, a trade-in allowance is excluded from the purchase price only if the person(s) listed on the title of the traded vehicle are the same as the person(s) listed on the newly acquired vehicle.

Example: Person H and Person I are unrelated and, together, own a vehicle subject to registration. The owner on the title of the vehicle is listed as "Person H or Person I." Person I trades in the vehicle toward the purchase of a new vehicle to be owned together by Person I and Person J, also unrelated. The owner on the title of the new vehicle is listed as "Person I or Person J." The trade-in allowance is not allowed against the purchase price because Person J is not one of the persons on the original vehicle title.

250.3(2) *Trades involving family members.* This allowance is only for lineal relationships and does not extend to nonlineal family members. Consequently, this allowance is not extended to brothers, sisters, aunts, uncles, or cousins.

EXAMPLE A: Grandmother and Grandfather are married and own a vehicle subject to registration together. The owner on the title of the vehicle is listed as “Grandmother or Grandfather.” Grandmother trades in the vehicle toward the purchase of a new vehicle. The owner on the title of the new vehicle is listed as “Grandmother or Grandson.” The trade-in allowance is allowed against the purchase price because all parties are lineal family members.

EXAMPLE B: Aunt and Uncle are married and own a vehicle subject to registration together. The owner on the title of the vehicle is listed as “Aunt or Uncle.” Aunt trades in the vehicle toward the purchase of a new vehicle. The owner on the title of the new vehicle is listed as “Aunt or Niece.” The trade-in allowance is not allowed against the purchase price because Niece is not a lineal family member of Aunt or Uncle.

250.3(3) *Trades involving an entity.*

a. When an entity is involved, the names on the title of the trade-in and newly acquired vehicle generally must be the same, except for sole proprietorships, which are not distinguished from the individual owner.

b. A trade-in credit is not allowed when a corporate vehicle owner trades in a vehicle subject to registration on behalf of a stockholder to purchase a new vehicle in the stockholder’s name, or vice versa.

EXAMPLE A: Corporation S owns a vehicle subject to registration. The owner on the title of the vehicle is listed as “Corporation S.” Corporation S trades the vehicle in for a new vehicle of equivalent value, which is titled in the name of “Stockholder G.” Stockholder G must pay the fee for new registration on the value of the new vehicle because no trade-in allowance is allowed.

EXAMPLE B: Business, Inc. and Person K own a vehicle subject to registration. The owner on the title of the vehicle is listed as “Business, Inc. or Person K.” Person K trades in the vehicle toward the purchase of a new vehicle. The owner on the title of the new vehicle is listed as “Person K.” The trade-in allowance is allowed against the purchase price because the original title is listed as “or” ownership and the received vehicle title contains only parties that were on the traded vehicle title.

250.3(4) *Trades involving a dealer.*

a. The dealer must be regularly engaged in the business of selling the type of vehicles involved in the trade.

EXAMPLE A: Person L trades a boat toward the purchase of a new vehicle subject to registration. The vehicle’s purchase price is \$10,000, and the dealer allows a trade-in allowance of \$5,000 for the boat. The dealer is not regularly engaged in the business of selling boats. The trade-in amount of \$5,000 for the boat does not reduce the amount subject to the fee for new registration because the traded vehicle is not one that the dealer sells in the regular course of business. The fee for new registration is due on \$10,000.

EXAMPLE B: Person N purchases a new truck and uses a truck that Person N currently owns as a trade. Person N goes to Truck Dealer to purchase the new truck. The truck that Person N wants has to be ordered from the manufacturer and will take six months for delivery. Truck Dealer prepares a purchase order showing the retail price of \$50,000 and a trade-in allowance for Person N’s truck of \$20,000. Since the truck being ordered will not be delivered for six months, Truck Dealer allows Person N to drive the traded truck until the new truck arrives. Truck Dealer still allows Person N the \$20,000 trade-in allowance regardless of the additional miles Person N may put on the traded truck. Since the purchase order for the new truck shows a \$20,000 trade-in allowance, the fee for new registration is imposed on \$30,000.

EXAMPLE C: Person O owns a car dealership corporation and a separate farm tractor dealership corporation. Person P wishes to purchase a car worth \$40,000 from Person O’s car dealership. Person P uses a tractor as trade, and Person O’s car dealership allows a trade-in allowance of \$40,000. Person P furnishes no money. Since Person P’s tractor was traded to the car dealership and not the tractor

dealership, the trade-in allowance cannot be used for purposes of the fee for new registration. The fee for new registration is imposed on \$40,000.

EXAMPLE D: Person Q owns two cars and wants to trade both cars toward the purchase of a new car. Car Dealer allows a trade-in allowance of \$5,000 for the first car and \$7,000 for the second car, for a total trade-in allowance of \$12,000. The purchased car price is \$14,000. Since Car Dealer is in the business of selling used cars, both of Person Q's cars can be used as a trade-in allowance. The fee for new registration is imposed on \$2,000.

b. For purpose of the fee for new registration, the total trade-in amount will be deducted from the purchase price, even if the trade-in is used to pay off an outstanding loan balance. The amount the purchaser owes on the traded-in vehicle is not relevant in determining the purchase price of the new vehicle.

EXAMPLE A: Person D purchases a vehicle for \$35,000 and trades in a vehicle as part of the transaction. The dealer gives a trade-in amount of \$15,000 based on the actual value of the vehicle being traded. Person D still owes \$10,000 on the traded vehicle. A portion of the \$15,000 trade-in value is used to pay off the \$10,000 remaining loan balance. In this example, \$15,000 is allowed as a trade for fee for purposes of the new registration.

EXAMPLE B: Person E "trades down" a car by purchasing a vehicle for \$20,000 and trades in a vehicle valued at \$30,000. Person E also has a loan on the vehicle being traded in. The car dealership may give enough of a trade-in allowance to pay off the loan and have money left over to pay on the new vehicle. Even though the trade-in allowance may be quite large, the full amount of the trade should be allowed for purposes of the fee for new registration. In this case, the trade-in allowance is \$30,000, and since that exceeds the price of the new vehicle, no fee for new registration is due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.4(321) Manufacturer's rebate.

250.4(1) *Generally.* A manufacturer's rebate can be used to reduce the purchase price of a vehicle subject to the fee for new registration.

250.4(2) *Qualifications.*

a. To qualify, the rebate must be:

- (1) A return of an amount that the purchaser would otherwise have paid;
- (2) In the form of money;
- (3) Offered by a manufacturer licensed under Iowa Code section 322.27; and
- (4) Applied to the purchase price of the vehicle;

b. Additionally, to qualify, the rebate is part of a transaction that is strictly between a manufacturer and a purchaser.

(1) The rebate must be from an entity acting as a manufacturer of such vehicle being purchased when offering the rebate. The rebate cannot be from a vehicle manufacturer engaging in other activities, such as a manufacturer acting in the capacity of a credit card issuer or a financing program; and

(2) The purchaser must be in the process of purchasing the vehicle when the rebate is given. The rebate cannot be given to a customer in a situation similar to the credit card rebate program, in which the customer earns the right to the rebate over a period of time. Purchase of the vehicle must occur simultaneously with the receipt of the rebate. The rebate cannot be allowed unless the customer purchases the vehicle.

250.4(3) *Exclusion from rebate.* Payment methods, such as credit or debit cards, issued by vehicle manufacturers that are used as a rebate toward the price of the manufacturer's vehicle are not considered a manufacturer's rebate for the purposes of the fee for new registration. These types of rebates cannot be used toward reducing the purchase price of a vehicle subject to the fee for new registration.

EXAMPLE: Person R purchases a vehicle subject to registration with a purchase price of \$30,000 and trades in a vehicle valued at \$10,000. The manufacturer of the newly purchased vehicle gives Person R \$1,000 on a manufacturer-issued credit card as a "rebate." Person R pays \$19,000 in cash for the new vehicle. The fee for new registration is due on \$20,000, because the "rebate" was issued on a credit card rather than applied directly to the price.

This rule is intended to implement Iowa Code section 321.105A.

701—250.5(321) Selling and purchasing the same vehicle. If a person sells a vehicle subject to registration and then buys the same vehicle back, the transaction is not exempt from the fee for new registration. These are two separate transactions, and both are subject to the fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.6(321) Federal excise tax. To be excluded from the fee for new registration, the federal excise tax must meet both of the following requirements:

250.6(1) It must be imposed upon the purchaser and be due at the time of the retail sale.

250.6(2) It must be billed or charged as a separate item.

This rule is intended to implement Iowa Code section 321.105A.

701—250.7(321) Sales to a Native American. If a dealer delivers a vehicle to a resident Native American on a reservation and, at a later time, the resident Native American registers the vehicle at the county treasurer's office, the fee for new registration is not due since the delivery took place on a reservation.

250.7(1) Off-reservation delivery. If the vehicle is delivered off a reservation, the fee for new registration is due even if the sole use of the vehicle is on a reservation.

250.7(2) On-reservation delivery. If delivery takes place on a reservation, but the owner is not a member of any federally recognized tribe, the fee for new registration is due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.8(321) Sale of chassis with added equipment or accessories.

250.8(1) Dealer-installed equipment. If a dealer sells a chassis and the purchaser has the dealer install any equipment, the fee for new registration is due on the full purchase price, including the chassis and the equipment. This is a completed vehicle when driven off the dealer's lot.

250.8(2) Third party-installed equipment. If the chassis is purchased from a dealer and the equipment is installed by the purchaser from a third party, the fee for new registration is due on the chassis and sales tax is due on the equipment.

EXAMPLE A: Business S purchases a chassis from an auto dealer for \$20,000. Business S wants a lift added to the chassis. The auto dealer agrees to sell and install the lift for \$15,000. The auto dealer takes the chassis to a lift dealer for purchase and installation of the lift. After the installation, Business S returns to the auto dealer to take delivery of the completed vehicle. Business S requests the auto dealer itemize the chassis price of \$20,000 and the lift price of \$15,000. Business S pays the auto dealer \$35,000 for the complete vehicle. The chassis and lift together are a vehicle subject to registration, because both constitute the completed vehicle, and the fee for new registration is due on \$35,000.

EXAMPLE B: Business T purchases a chassis from an auto dealer for \$20,000. Business T wants a lift added to the chassis. However, Business T will purchase the lift from a third party and not from the auto dealer. Business T pays the dealer \$20,000 for the chassis. Business T drives the chassis to a lift dealer to purchase and install a lift for \$12,000. The purchase of the chassis from the auto dealer is subject to the fee for new registration because it alone constitutes the completed vehicle purchased. The purchase and installation of the lift from the lift dealer are subject to Iowa sales tax and any applicable local option tax, rather than the vehicle fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.9(321) Sale of a boat or ATV with a trailer.

250.9(1) Itemization. If a boat or ATV dealer sells a boat or ATV with a trailer as a packaged deal, the dealer must itemize the boat or ATV, boat or ATV accessories, and trailer. The fee for new registration is due on the purchase price of the trailer.

250.9(2) Nonitemization. If the boat or ATV dealer does not itemize, it is assumed the full price of the packaged deal is for the purchase of a trailer and not for the boat or ATV and accessories. The fee for new registration will be calculated based on the full price of the packaged deal.

This rule is intended to implement Iowa Code section 321.105A.

701—250.10(321) Administration.

250.10(1) *Affidavit.* Vehicle registrants may utilize either a paper or electronic affidavit as a method of submission. The title and registration application created under Iowa Code section 321.20 is an affidavit for purposes of this rule.

250.10(2) *Exemption categories.* Exemptions are divided into eight categories as follows:

- a. UT01 - Iowa Code sections 321.105A(2) “c”(19) and 321.105A(2) “c”(20).
- b. UT02 - Iowa Code section 321.105A(2) “c”(1).
- c. UT03 - Iowa Code sections 321.105A(2) “c”(3) and 321.105A(2) “c”(12).
- d. UT04 - Iowa Code section 321.105A(2) “c”(14).
- e. UT05 - Iowa Code section 321.105A(2) “c”(6).
- f. UT06 - Iowa Code section 321.105A(2) “c”(2).
- g. UT07 - Iowa Code section 321.105A(2) “c”(5).
- h. UT08:
 - (1) UT08b - Iowa Code section 321.105A(2) “c”(10).
 - (2) UT08c - Iowa Code section 321.105A(2) “c”(8).
 - (3) UT08d - Iowa Code section 321.105A(2) “c”(16).
 - (4) UT08e - Iowa Code section 321.105A(2) “c”(7).
 - (5) UT08i - Iowa Code section 321.105A(2) “c”(18).
 - (6) UT08j - Iowa Code section 321.105A(2) “c”(13).
 - (7) UT08k - Iowa Code section 321.105A(2) “c”(11).
 - (8) UT08s - Iowa Code section 321.105A(2) “c”(17).
 - (9) UT08 - Other - Iowa Code sections 321.105A(2) “c”(4), 321.105A(2) “c”(9), 321.105A(2) “c”(15), and 321.105A(2) “c”(21) through 321.105A(2) “c”(31).

250.10(3) *Burden.* The burden of proof regarding whether an exemption applies is upon the person claiming the exemption.

250.10(4) *Signature.* Signatures are required on all affidavits. If a fleet (five or more vehicles) of vehicles is being registered, an affidavit for each vehicle within the fleet must be completed and signed.

250.10(5) *Claims.* Any claim for exemption from the fee for new registration made by a purchaser with a county treasurer is subject to review and ultimate determination by the department. If, after review, an exemption is found to have been claimed improperly, penalty and interest may apply in addition to the fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.11(321) Shell businesses.

250.11(1) The 90-day temporary period of operation under Iowa Code section 321.55(2) does not apply to a vehicle owned by a shell business.

250.11(2) Factors that indicate a business is a shell business include but are not limited to a lack of specific business activity or purpose and failure to maintain a physical location in the state in which the business is registered.

250.11(3) If the department determines that the nonresident owner of the vehicle is a shell business, it is presumed that:

- a. The Iowa resident in control of the vehicle is the actual owner of the vehicle;
- b. The vehicle is subject to Iowa registration; and
- c. The payment of the fee for new registration is owed by the Iowa resident.

This rule is intended to implement Iowa Code section 321.105A.

701—250.12(321) Purchased for resale.

250.12(1) *Dealer purchase for resale or service use.* A motor vehicle dealer licensed under Iowa Code chapter 322 may title or title and register a vehicle using an exemption under either Iowa Code section 321.105A(2) “c”(14) or 321.105A(2) “c”(15) if the vehicle is operated in a manner consistent with the lawful use of dealer plates under Iowa Code section 321.57 and any associated rules.

250.12(2) *Held for resale qualification.* In order for a vehicle to be considered to be “held for resale,” all of the following criteria must be met during all times that the vehicle is registered to the dealer:

- a. The dealer must be licensed in Iowa pursuant to Iowa Code chapter 322;
- b. Any use of the vehicle by the dealer must not constitute a taxable sale;
- c. The dealer must keep the vehicle in its inventory for sale at all times;
- d. The person using the vehicle must be aware of and accept that the vehicle may be sold at any time, resulting in the removal of the vehicle from that person’s possession;
- e. The dealer must permit the vehicle to be used without charge;
- f. The dealer must not title the vehicle in its name and must operate the vehicle with dealer plates as provided in Iowa Code section 321.57.

250.12(3) *Held for resale disqualification.* If, at any time after the exemption is issued until the vehicle is no longer considered to be in the dealer’s inventory, the dealer fails to maintain any criteria defined in subrule 250.12(2), the fee for new registration is due on the purchase price paid by the dealer at the time of acquisition of the vehicle.

EXAMPLE: Person R owns Auto Dealer, a sole proprietorship. Person R’s child, Person U, needs a car, and Person R gifts a car worth \$5,000 from Auto Dealer’s inventory to Person U. The vehicle had previously been registered as a vehicle purchased for resale. Person U does not provide any consideration. Person U does not owe the fee for new registration on the transfer. However, Auto Dealer owes the fee for new registration on the purchase price paid by Auto Dealer at the time of acquisition. The vehicle was purchased for resale; however, it was not sold by Auto Dealer. As a result, Auto Dealer loses its dealer exemption for resale on this vehicle, and the fee for new registration is due on the purchase price paid by the dealer at the time of acquisition of each vehicle.

250.12(4) *Expired, revoked, or suspended licenses.*

a. *Expiration or revocation.* If a dealer license expires and is not renewed or the dealer license has been revoked, the dealer must title and register all the vehicles in the dealership inventory within 30 days of the license revocation or expiration. The fee for new registration is due on the purchase price paid by the dealer at the time of acquisition of each vehicle.

b. *Suspension.* If a dealer license is suspended, a dealer is not required to title or register the vehicles in the dealer’s inventory because a suspension is merely a temporary interruption in the dealership business. The dealer’s exemption remains intact during the period of suspension.

This rule is intended to implement Iowa Code section 321.105A.

701—250.13(321) Loans. Relief from a loan balance constitutes consideration for the purposes of the fee for new registration.

EXAMPLE A: A vehicle is titled in Person V’s name with a loan also in Person V’s name. Person V transfers the title to Person W, who assumes the unpaid balance of the loan. A new lien is filed. The fee for new registration is due on Person V’s outstanding loan balance.

EXAMPLE B: A vehicle is titled in Person X’s name with an outstanding loan balance of \$10,000. Person X transfers the title to Person Y. Person Y takes out a \$15,000 loan to pay off Person X’s outstanding loan of \$10,000 and also to have \$5,000 for repairs to Person Y’s house. The fee for new registration is due only on Person X’s outstanding loan balance of \$10,000.

This rule is intended to implement Iowa Code section 321.105A.

701—250.14(321) Leased vehicles.

250.14(1) The fee for new registration on leased vehicles is a liability of the owner (lessor) of the vehicle and not the lessee.

250.14(2) Owners/lessors may require the lessee to reimburse the owner/lessor, by adding the fee for new registration to the monthly lease payment or by requiring the lessee to pay the fee for new registration up front.

250.14(3) When a lessee chooses to terminate a lease and purchase the vehicle being leased, the purchase is subject to a fee for new registration on the purchase price. There is no refund of the fee for new registration paid on the lease price.

250.14(4) If an existing lease is transferred to another lessee, no additional fee for new registration is due so long as the title to the vehicle is maintained by the same lessor and the terms of the lease are not changed.

250.14(5) When a vehicle with an existing lease established in another state is registered in Iowa, the lease price is calculated as established in Iowa Code section 321.105A(3) “b” and is then prorated for the number of months remaining on the lease. No credit is allowed for any fee or tax paid to another state.

250.14(6) If a vehicle is leased between affiliates as defined in Iowa Code section 321.105A(3) “f”(3)(a), no fee for new registration is due on the lease so long as the fee was paid by the lessor prior to the lease.

This rule is intended to implement Iowa Code section 321.105A.

701—250.15(321) Exemption for vehicles purchased for the purpose of being leased and used exclusively for interstate commerce.

250.15(1) *Lease types.* The department makes a distinction between a true lease and a contract to haul. While an agreement may be a lease for purposes of the Interstate Commerce Commission, this does not mean it is a lease for purposes of the fee for new registration.

a. A true lease exists when the owner (lessor) gives the lessee exclusive possession of the lessor’s property for a specified period.

b. A contract to haul exists when an owner contracts to do a piece of work while retaining control of the vehicle and methods of operation. A contract to haul is not a lease; therefore, the vehicle is not exempt.

250.15(2) *Intrastate and interstate delivery.*

a. An intrastate delivery occurs when property is picked up at one location in Iowa and delivered to another location in Iowa, regardless of whether the vehicle travels in another state in between pick-up and delivery.

b. An interstate delivery occurs when either the pick-up or delivery site is located outside of Iowa.

EXAMPLE A: Leasing Company A purchased a cargo van for the purpose of leasing it to XYZ Trucking. The lease agreement is for 36 months. XYZ Trucking will pick up property from Iowa businesses to be delivered out of state. XYZ Trucking never uses the van for intrastate deliveries within Iowa. XYZ Trucking uses this van exclusively in interstate commerce. All of the trips are either totally outside the state of Iowa, or, if a product is loaded in Iowa, the product is delivered outside of Iowa. As long as pick-up and delivery points are in different states, then the trip is considered interstate commerce. As such, the van in this example may be purchased by Leasing Company A exempt from the fee for new registration.

EXAMPLE B: Leasing Company A purchases a flatbed truck for the purpose of leasing it to XYZ Trucking, located within Iowa. The lease is for five months. XYZ Trucking will use the truck for deliveries out of state and in Iowa. Since some deliveries occur in Iowa, the subsequent use in Iowa is not solely for interstate commerce. The purchase by Leasing Company A (lessor) of the flatbed is subject to the fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.16(321) Exemption for certain Iowa Code chapter 326 vehicles.

250.16(1) Vehicles registered or operated under Iowa Code chapter 326 and used substantially in interstate commerce are exempt from the fee for new registration under Iowa Code section 321.105A(2) “c”(5).

250.16(2) The period for substantiating the mileage to qualify for the exemption for these types of vehicles by the department is fiscal year July 1 to June 30, with an exception if the initial registration

period is a short year (less than 12 months). Mileage during that period will be totaled with the first full year for substantiation purposes.

250.16(3) Whether a vehicle is registered prorate or has county plates does not determine eligibility for exemption.

250.16(4) Records from the first four years of operation of the vehicle must be kept for at least ten years to prove the vehicle has consistently been eligible for the exemption. Summary records, such as the monthly or annual records required by the International Fuel Tax Agreement (IFTA), may be kept to prove the mileage requirement was met. Records are required for power units but not for trailers or semi-trailers.

250.16(5) The exempt status of a trailer or semi-trailer is based upon to what it is attached. If attached to an exempt power unit, the trailer or semi-trailer is also exempt.

EXAMPLE A: XYZ Trucking purchased two semi-tractors two years ago. An exemption was claimed because 25 percent of the mileage for each was out-of-state mileage and they met the registered weight requirement. Two years later, XYZ Trucking decided one of the semi-tractors will be used only in Iowa. The registered weight did not change, but the 25 percent out-of-state mileage requirement was not maintained for the first four years, so the exemption no longer applies. XYZ Trucking's book value is \$60,000, and the market value is \$75,000. The book value is less than the market value; the fee for new registration is imposed on the \$60,000 book value.

EXAMPLE B: Two years ago, XYZ Trucking purchased a power unit and a semi-trailer. The power unit was used in excess of the 25 percent mileage requirement and met the 13-ton weight requirement, so an exemption was claimed. They were originally registered prorate. This year, XYZ Trucking decided to register the power unit and semi-trailer with county plates instead of renewing the prorate registration. Although the power unit and semi-trailer will be county-plated, XYZ Trucking will still use the power unit 25 percent outside of Iowa. The registered weight did not change. Since both the 25 percent mileage factor and the 13-ton registered weight factor are met, the fee for new registration is not due.

EXAMPLE C: Two years ago, XYZ Trucking purchased a power unit and a semi-trailer. Both the power unit and semi-trailer were used in excess of the 25 percent mileage requirement and met the 13-ton weight requirement, so an exemption was claimed. The power unit and the semi-trailer were originally registered prorate. This year, XYZ Trucking decided to register the semi-trailer with county plates instead of renewing the prorate registration. The power unit will still be used 25 percent outside of Iowa. The mileage of the semi-trailer does not matter because there is no record-keeping requirement for trailers or semi-trailers. The registered weight did not change. Since both the 25 percent mileage factor and weight requirements continue to be met, the fee for new registration is not due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.17(321) Vehicles purchased outside of Iowa.

250.17(1) *Vehicles purchased with no intent for use in Iowa.* Vehicles that are purchased by a nonresident for use in a location other than Iowa are not subject to the fee for new registration upon move-in to Iowa. The determination of intention of use in Iowa is a factual determination. The county treasurer should consider any appropriate factors, including but not limited to the following:

a. Whether the vehicle was owned by the owner for a significant time prior to relocation to Iowa. A longer period of ownership while in another location may be indicative of intent of use in the other location. Conversely, if the vehicle was purchased near the time of relocation to Iowa, this might suggest intent of use in Iowa.

b. Whether the vehicle was registered in another location.

c. Whether a substantial number of miles were driven in the vehicle in another location since the owner purchased the vehicle.

EXAMPLE: Person A, a resident of Moline, Illinois, purchased a vehicle from a dealership in Chicago, Illinois, one week before Person A moved to Davenport, Iowa. The vehicle was registered in Illinois. Person A was not aware at the time of purchase that Person A's employer would transfer Person A to Iowa. Person A's intent was not to use the vehicle in Iowa; therefore, Iowa's fee for new registration is not due.

250.17(2) Vehicles purchased with intent of use in Iowa. Vehicles subject to registration in Iowa are eligible for an exemption equal to a fee for new registration paid to another state or country. For the exemption to apply, the owner must show proof that the owner was legally required to, and did in fact, pay a fee for new registration, a sales or use tax, or an occupational tax to another state or country for the vehicle being registered in Iowa. Evidence of the payment may include but is not limited to purchase records, canceled checks, or invoices.

EXAMPLE A: Person L is an Iowa resident. While in Nevada, Person L purchased a new camper for \$20,000. Nevada did not require Person L to pay a state fee for new registration or a state sales, use, or occupational tax. Person L brought the camper back to Iowa. The camper requires an Iowa title and registration. Since no state fee for new registration or state sales, use, or occupational tax was paid to the state of Nevada, Iowa's fee for new registration is due on the purchase price of \$20,000.

EXAMPLE B: Person Q is an Iowa resident and spends the winter months in Florida. Person Q decides to purchase a new vehicle in Florida for \$35,000. Person Q is required to pay 5 percent Florida state sales tax. Person Q chooses not to title or register the vehicle in Florida. After spending the winter months in Florida, Person Q returns to Iowa and brings the new vehicle. Since Person Q had to pay a 5 percent Florida state sales tax, Person Q receives a credit for that amount against Iowa's fee for new registration.

EXAMPLE C: Iowa resident Person W purchases a vehicle for \$25,000 while in Arizona. Person W was required to pay an Arizona state sales tax of 2 percent and a county tax of 1 percent. Person W returns to Iowa with the vehicle. The bill of sale shows a breakdown as follows:

Purchase Price.....	\$25,000
Arizona State Sales Tax.....	\$500
Arizona County Tax.....	\$250
Total Amount Due.....	\$25,750

When Person W titles and registers the vehicle in Iowa, the 5 percent Iowa fee for new registration would be \$1,250. Person W receives credit only for the Arizona state sales tax of \$500 but not the county sales tax. Iowa fee for new registration is as follows:

Iowa Fee for New Registration.....	\$1,250
Less Arizona State Sales Tax.....	\$500
Iowa Fee for New Registration Due.....	\$750

EXAMPLE D: Iowa resident Person Z purchases an \$80,000 vehicle in California and is required to pay a 9 percent California state sales tax of \$7,200. Person Z returns to Iowa with the vehicle. When Person Z titles and registers the vehicle in Iowa, the 5 percent Iowa fee for new registration would be \$4,000. Since Person Z paid a California state sales tax of \$7,200, which was more than the Iowa fee for new registration, the Iowa fee for new registration is not due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.18(321) Business entity to business entity transfers with the same ownership and purpose. Transactions between two business entities may be exempted from the fee for new registration if the requirements described in Iowa Code section 321.105A(2)“c”(3) are met.

EXAMPLE A: Person F owns and operates a family farm as a sole proprietorship and wants to transfer assets (including a vehicle subject to registration) from Person F's personal name into a corporation (of which Person F or Person F's spouse is the sole shareholder). Person F filed articles of incorporation earlier this year with the secretary of state and intends to use the corporation to continue to operate Person F's family farm, the same purpose as the sole proprietorship. This transaction is eligible for the exemption described in Iowa Code section 321.105A(2)“c”(3) because the vehicle is being transferred from an eligible business type (sole proprietorship) to a corporation, with the ownership of the businesses being the same and the transaction occurring within two years of the corporation being

formed, and the newly formed corporation was formed for the purpose of continuing the family farm business.

EXAMPLE B: Person G wants to start a construction business. Person G currently does not operate any business. Person G files articles of incorporation and wants to transfer a truck from Person G's personal name into the corporation. This transaction is not eligible for the exemption described in Iowa Code section 321.105A(2) "c"(3) because the purpose of the corporation is not to continue an existing eligible business.

EXAMPLE C: Person H operates a delivery business as a sole proprietorship and wants to expand. Person H gets together with two investors and files articles of incorporation with all three partners as shareholders and wants to transfer a van into the corporation. This transaction is not eligible for the exemption described in Iowa Code section 321.105A(2) "c"(3) because the ownership of the corporation is not the same as the sole proprietorship, since all of the stock of the corporation is not owned by Person H.

This rule is intended to implement Iowa Code section 321.105A.

701—250.19(321) Homemade vehicles.

250.19(1) Homemade vehicles are exempt from the fee for new registration as described in Iowa Code section 321.105A(2) "c"(16). For the purposes of the vehicle fee for new registration, a homemade vehicle is one that has been constructed from any combination of new, used, or homemade parts that does not resemble a vehicle that was manufactured under a specific year, make, and model by a manufacturer and is not intended for resale.

250.19(2) Homemade vehicles include:

a. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer.

EXAMPLE: A vehicle with modified fenders, engine compartment lid, and front end, but still recognizable as the make/model of the vehicle, is not considered homemade;

b. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

c. A vehicle that has been constructed by using major component parts from one or more manufactured vehicles and cannot be identified as a specific make and model.

This rule is intended to implement Iowa Code section 321.105A.

701—250.20(321,423) Glider kit vehicles.

250.20(1) A glider kit vehicle is exempt from the fee for new registration upon sale or transfer by the person who purchased the parts and assembled the vehicle if sales or use tax was paid when the parts were purchased and the vehicle has never been registered previously.

250.20(2) A glider kit vehicle is subject to the fee for new registration, barring other applicable exemptions, if the glider kit vehicle is subsequently sold. Glider kit parts may be eligible for the resale exemption if the purchaser of the parts can satisfy the requirements of rule 701—225.3(423) to qualify for the exemption provided by Iowa Code section 423.3(2).

This rule is intended to implement Iowa Code sections 321.105A and 423.3.

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[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9035C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to automobile rental excise tax

The Revenue Department hereby rescinds Chapter 251, “Automobile Rental Excise Tax,” 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 421.14, 422.68, 423.42 and 423C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 423C.

Purpose and Summary

The purpose of this rulemaking is to rescind and adopt new Chapter 251. This chapter provides guidance on the excise tax imposed on the rentals of automobiles and the Department’s administration of the tax. The Department revised the chapter to remove portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10. Further, the Department removed existing rule 701—251.4(423C) and added the language of that rule to existing rule 701—251.2(423C), where it would be better suited.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8728C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 251 and adopt the following **new** chapter in lieu thereof:

CHAPTER 251
AUTOMOBILE RENTAL EXCISE TAX

701—251.1(423C) Definitions and characterizations. For the purposes of this chapter, terms have the same meaning as defined in Iowa Code section 423C.2. In addition, the following definitions and characterizations of words apply.

“*Automobile*” means the same as defined in Iowa Code section 423C.2(2) and does not include delivery trucks designed primarily to carry cargo rather than passengers.

“*Lessor*” is a person engaged in the business of renting automobiles to users. Included within the meaning of the term “lessor” are motor vehicle dealers licensed under Iowa Code chapter 322 to sell new and used automobiles who also rent automobiles to users. A person need not be engaged in a profit-making enterprise to be in the business of renting automobiles.

701—251.2(423C) Tax imposed upon rental of automobiles.

251.2(1) Generally. A tax at the rate of 5 percent is imposed on the rental price of any automobile if the rental transaction is taxed under Iowa sales or Iowa use tax law. The tax imposed is in addition to the Iowa state sales or use tax. However, if the rental transaction is not subject to the state sales or use tax, then no automobile rental excise tax is due.

a. Sales tax. Sales tax is due on the rental price of the “rental” of an automobile if possession or the right to possession of the automobile is transferred, under a rental contract, in Iowa.

b. Use tax. Use tax is due on the rental price if an automobile is rented outside Iowa, used in Iowa under the rental contract, and payment of the rental price is made in Iowa at the termination of the rental agreement.

251.2(2) Administration. The director of revenue is required to administer the excise tax on automobile rental as nearly as possible in conjunction with the administration of the state sales tax.

a. Monthly reporting. On a monthly basis, the correct amount of automobile tax collected and due must be reported and remitted to the department electronically via GovConnectIowa.

b. Permit. No permit, other than an Iowa sales and use tax permit, is required to collect the tax imposed under Iowa Code chapter 423C. However, the director may require persons responsible for collecting the automobile rental excise tax to register with the department.

c. Other aspects to administration. 701—Chapters 10, 11, 201, 202, and 203 provide more information on other details of administering this tax.

701—251.3(423C) Lessor’s obligation to collect tax. The lessor shall collect automobile rental excise tax from the user or from any other person paying the rental price for an automobile. The lessor shall collect the tax by adding the tax to the rental price of the automobile. When collected, the tax shall be stated on any billing or invoice as a distinct item separate and apart from the rental price of the automobile and separate and apart from any state or local option sales or service tax or any state use tax.

These rules are intended to implement Iowa Code chapter 423C.

[Filed 2/27/25, effective 4/23/25]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9036C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rulemaking related to state-imposed water service excise tax**

The Revenue Department hereby rescinds Chapter 252, “State-Imposed Water Service Excise Tax,” 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 423G.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 423G and sections 423.1 and 423.3.

Purpose and Summary

The purpose of the rulemaking is to rescind and adopt new Chapter 252. This chapter describes the Department’s interpretation of Iowa Code chapter 423G as it applies to the water service excise tax. The Department revised the chapter to remove portions of the rules that the Department determined are obsolete, inaccurate, unnecessary, or duplicative of statutory language pursuant to Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8732C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 252 and adopt the following **new** chapter in lieu thereof:

CHAPTER 252
STATE-IMPOSED WATER SERVICE EXCISE TAX

701—252.1(423G) Definitions.

252.1(1) *Incorporation of definitions.* To the extent they are consistent with Iowa Code chapter 423G, all words and phrases used in this chapter mean the same as defined in Iowa Code section 423.1.

252.1(2) *Chapter-specific definitions.* For the purposes of this chapter, unless the context otherwise requires:

“Facilities” means any storage tanks, water towers, wells, plants, reservoirs, aqueducts, hydrants, pumps, pipes, or any other similar devices, mechanisms, equipment, or amenities designed to hold, treat, sanitize, or deliver water.

“State-imposed tax” or *“tax,”* unless otherwise indicated, means the water service excise tax imposed by Iowa Code section 423G.3.

“Water utility” means the same as defined in Iowa Code section 423.3(103). “Corporation” as used in Iowa Code section 476.1 and as incorporated by Iowa Code section 423.3(103) includes municipal corporations.

This rule is intended to implement Iowa Code sections 423G.2 and 423G.3.

701—252.2(423G) Imposition. A state-imposed tax of 6 percent is imposed upon the sales price of water service furnished by a water utility to a purchaser.

This rule is intended to implement Iowa Code section 423G.3.

701—252.3(423G) Administration.

252.3(1) *Generally.* The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director.

252.3(2) *Application of 701—Chapter 11.* The requirements of 701—Chapter 11 apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423G.5.

701—252.4(423G) Charges and fees included in the provision of water service.

252.4(1) *Sales integral to the ability to furnish water service.* The water service excise tax applies to the sale of water by piped distribution to consumers or users, including sales of accompanying services that are integral to furnishing water by piped distribution, even if the water service and accompanying services are billed separately.

252.4(2) *Examples of sales integral to the provision of water service.* Sales of services to consumers or users that are considered integral to the furnishing of water by piped distribution include but are not limited to the following:

a. Nonitemized tangible personal property included with the sale of water service or an accompanying service that is integral to the provision of water service. More information on nonitemized tangible personal property is contained in subparagraph 252.4(4) “a”(2).

b. Water sold, regardless of whether the water is metered.

c. Service, account, or administrative charges or fees for water service, including but not limited to new customer account charges and minimum charges for access to water service, whether the customer uses the water service or not.

d. Fees for connection, disconnection, or reconnection to or from a water utility's facilities, including tap fees.

e. Fees for maintenance, inspection, and repairs of the water distribution system, water supplies, and facilities, including but not limited to fees for labor or materials.

f. Fees for using or checking water meters.

g. Water distribution system infrastructure and improvement fees.

252.4(3) *Examples of sales that are not water service or are not integral to the provision of water service.* Sales of services that are not integral to the furnishing of water by piped distribution include but are not limited to the following:

a. Residential service contracts regulated under Iowa Code chapter 523C.

b. Sales or rentals of tangible personal property, other than water, sold for a separately itemized price. More information on itemized tangible personal property is contained in subparagraph 252.4(4) "a"(1).

c. Returned check fees.

d. Deposits, including but not limited to check and meter deposits.

e. Fees for printed bills, statements, labels, and other documents.

f. Fees for late charges and nonpayment penalties.

g. Leak detection fees.

252.4(4) *Sales generally not subject to water service excise tax.* Water utilities may make sales that may or may not be integral to the sale of water service but that are not subject to water service excise tax because those nonintegral sales are subject to sales tax under Iowa Code section 423.2 as the sale of tangible personal property enumerated nonwater services or specified digital products.

a. *Sales of tangible personal property.* Whether the sale of tangible personal property that is integral to water service is subject to the water service excise tax depends on whether the tangible personal property is sold to the consumer or user for a separately itemized price.

(1) Itemized tangible personal property. Sales or rentals of tangible personal property by a water utility for a separately itemized price are not subject to the water service excise tax but may be subject to sales and use tax.

(2) Nonitemized tangible personal property. If the sale of tangible personal property is not itemized but is instead bundled with the sale of water service, including sales of services listed in subrule 252.4(2), then the entire sales price is subject to the water service excise tax.

b. *Painting of hydrants.* The painting of hydrants constitutes painting services under Iowa Code section 423.2(6) "aj." Painting is subject to sales tax and is not subject to water service excise tax.

c. *Pipe fitting and plumbing.* Some repairs of a water distribution system may constitute pipe fitting and plumbing under Iowa Code section 423.2(6) "an." Pipe fitting and plumbing services are subject to sales tax and are not subject to water service excise tax.

252.4(5) *Exemptions.* The exemptions from sales tax under Iowa Code section 423.3 also apply to sales subject to water service excise tax. For example, a water utility that purchases water service from a different water utility may be eligible to claim the sale for resale exemption pursuant to Iowa Code section 423.3(2).

This rule is intended to implement Iowa Code sections 423G.4 and 423G.5.

701—252.5(423G) When water service is furnished for compensation.

252.5(1) *Itemized sales of water service.* Water service is furnished for compensation when water service is sold for a separately itemized price.

EXAMPLE A: Itemized sale of water service. Z is an entity that provides water from a well by piped distribution to various homes in the community. Each home that is connected to the well pays \$20 per month, which is used by Z for maintaining the water distribution system. Z is a water utility making

sales of water service and must collect and remit tax on the \$20 monthly fee charged to each of Z's members.

EXAMPLE B: Sale for resale. An apartment owner purchases water from a city water utility and distributes the water to each unit through a system of pipes. The city meters the apartment owner's use of water each month and charges the apartment owner for the water service. The apartment owner separately bills each of the tenants \$40 per month for water service, including the cost of water and maintenance on the water distribution system. The apartment owner is a water utility and must collect and remit tax on the \$40 monthly charge for water service. The apartment owner may purchase the water from the city exempt from tax as a sale for resale.

252.5(2) *Water service sold for an identifiable price.* Water service is furnished for compensation when the price of the water service is identifiable from an invoice, bill, catalog, price list, rate card, receipt, agreement, or other similar document, including where the total sales price increases when water service is included in the sale.

EXAMPLE: Cost varies with inclusion of water service. A campground provides three campsite packages to its customers:

Package A includes only campsite access for \$10 per night.

Package B includes campsite access and an electrical hookup for \$20 per night.

Package C includes campsite access, an electrical hookup, and water service for \$30 per night.

Sales of package C by the campground include sales of water service. The campground must collect and remit tax on \$10—the identifiable sales price of water service.

252.5(3) *Water service not furnished for compensation; incidental sales.* No sale of water service for compensation occurs where water service is not sold for a separately itemized or identifiable price and is incidental to the rental of real property.

EXAMPLE A: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) owner owns a well and pipes water to the lots. The MHC owner charges tenants \$500 per month for each lot rental. Water from the well is included in the \$500 rental charge. The MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit tax because water is not being furnished for compensation; it is incidental to the rental of real property.

EXAMPLE B: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) purchases water from a city water utility and distributes the water to each lot in the community through a system of pipes. The city meters the MHC's use of water each month and charges the MHC for the water service and the applicable tax. The MHC charges its tenants \$500 for lot rental. As in the previous example, the MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit tax because water is not being furnished for compensation; it is incidental to the rental of real property.

This rule is intended to implement Iowa Code section 423G.3.

701—252.6(423G) Itemization of tax required. A water utility shall add the tax to the sales price of the water service, and the tax, when collected, shall be stated as a distinct item on any bill, receipt, agreement, or other similar document. The tax shall be identified as the water service excise tax, and the amount of tax paid shall be displayed clearly on the bill, receipt, agreement, or other similar document provided to the purchaser.

This rule is intended to implement Iowa Code section 423G.3.

701—252.7(423G) Date of billing—effective date and repeal date. For purposes of determining whether sales tax or water service excise tax applies to billings that span across the July 1, 2018, effective date of Iowa Code chapter 423G or the future repeal date described in Iowa Code section 423G.7, the provisions of rule 701—204.7(423) apply.

This rule is intended to implement Iowa Code section 423G.5.

701—252.8(423G) Filing returns; payment of tax.

252.8(1) *Application of 701—Chapter 202.* The requirements of 701—Chapter 202 apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

252.8(2) *Frequency of return filing and payment of tax based on combined water service excise tax and sales and use tax.* With respect to the tax thresholds used for determining whether a retailer must file a return and remit sales and use tax monthly or annually as described in rule 701—202.1(423), the threshold for determining how frequently a water utility must file a return and remit the water service excise tax is based on the sum of the total amount of sales and use tax collected and the total amount of water service excise tax collected.

This rule is intended to implement Iowa Code section 423G.5.

701—252.9(423G) Permits.

252.9(1) *Application of 701—Chapter 201.* The requirements of 701—Chapter 201 apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

252.9(2) *Separate water service excise tax permit required.* All water utilities must register for a water service excise tax permit and remit the tax under that permit. Water utilities that also make other sales subject to sales tax must obtain a water service excise tax permit and a sales tax permit and must remit all sales tax under the sales tax permit and all water service excise tax under the water service excise tax permit.

This rule is intended to implement Iowa Code section 423G.5.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9037C

REVENUE DEPARTMENT[701]**Adopted and Filed****Rulemaking related to state-imposed and locally imposed hotel and motel taxes**

The Revenue Department hereby rescinds Chapter 253, “State-Imposed and Locally Imposed Hotel and Motel Taxes,” 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 421.14, 422.68, 423.42 and 423A.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 423A.

Purpose and Summary

The purpose of the rulemaking is to rescind Chapter 253 and adopt a new Chapter 253 regarding the Department's role in the administration of state and local hotel and motel taxes. These rules interpret the underlying statutes about the applicability, collection, and remittance of the state-imposed and locally imposed hotel and motel taxes. The Department revised the chapter to remove portions of the rules that the Department determined are obsolete, unnecessary, or duplicative of statutory language as required by Executive Order 10. Further, the Department revised the chapter to add clarity and better organization to

aid the public's understanding of state and local hotel and motel taxes. The Department also renumbered some rules due to other edits and for organizational reasons.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8729C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 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 February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 253 and adopt the following **new** chapter in lieu thereof:

CHAPTER 253

STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES

701—253.1(423A) Definitions.

253.1(1) *Incorporation of definitions.* To the extent they are consistent with Iowa Code chapter 423A and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code chapter 423A.

253.1(2) *Chapter-specific definitions.* For purposes of this chapter, unless the context otherwise requires:

“*Land use district*” means a district created under Iowa Code chapter 303.

“*Locally imposed tax*” means the hotel and motel tax levied by Iowa Code section 423A.4.

“*Retailer*” means a person required to collect hotel and motel tax, including but not limited to lodging providers, lodging facilitators, and lodging platforms.

“State-imposed tax” means the hotel and motel tax levied by Iowa Code section 423A.3.

“Tax” or “hotel and motel tax” means the state-imposed hotel and motel tax levied by Iowa Code section 423A.3 and any locally imposed hotel and motel tax levied by Iowa Code section 423A.4.

This rule is intended to implement Iowa Code sections 423A.2, 423A.3, 423A.4, 423A.5, and 423A.5A.

701—253.2(423A) Administration. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423A.6.

701—253.3(423A) Filing returns; payment of tax; penalty and interest.

253.3(1) Incorporation of 701—Chapter 202. Except as otherwise stated in this chapter, the requirements of 701—Chapter 202 apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

253.3(2) Filing returns. Retailers required to collect and remit hotel and motel tax must file returns as required in Iowa Code section 423.31.

253.3(3) Combined sales and hotel and motel tax return.

a. On the monthly sales tax return, a retailer shall report the gross sales subject to the hotel and motel tax for the month, listing allowable deductions and calculating tax for the month. The information required for the computation of the hotel and motel tax liability is separate from that required for the computation of the retail sales tax liability and must be separately stated and computed even though total tax liability may be paid with a single remittance.

b. The monthly returns are due on the last day of the month following the close of each calendar month during which the tax is collected. For example, the return for tax collected during April 2025 is due on or before May 31, 2025.

253.3(4) Application of partial payments.

a. All payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest.

b. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2) “d.” The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: Hotel owes a total of \$1,000 in net state sales tax and hotel and motel tax for the month. Of the \$1,000 owed, \$600 is for hotel and motel tax and \$400 is for state sales tax. Hotel files its monthly sales tax return accompanied by a \$500 partial payment. The \$500 partial payment would be applied based on the following computation:

$$\frac{600}{1,000} \times 500 = \$300 \text{ Hotel and motel tax}$$

$$\frac{400}{1,000} \times 500 = \$200 \text{ State sales tax}$$

253.3(5) Application of payments upon termination by a land use district. If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax are treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all

revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in Iowa Code section 423A.6(1).

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.6.

701—253.4(423A) Permits.

253.4(1) *Incorporation of 701—Chapter 201.* Except as otherwise stated in this chapter, the requirements of 701—Chapter 201 apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

253.4(2) *Sales tax permit required.*

a. There is no separate hotel and motel tax permit; retailers required to collect and remit hotel and motel tax shall obtain an Iowa sales tax permit.

b. Any lodging facilitator not in the business of renting rooms to transient guests but that facilitates rentals of lodging at varying locations in Iowa to transient guests may register once under this chapter.

c. A lodging facilitator is not required to register under this chapter if the lodging facilitator and its affiliates do not exceed the transaction and sales thresholds in Iowa Code section 423A.5A.

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, 423A.5A, and 423A.6.

701—253.5(423A) Special collection and remittance obligations.

253.5(1) *Exclusion from facilitation fee; itemization of components of sales price not required.* A retailer is not required to separately itemize any component part of the sales price as separate and distinct from the rest of the sales price. Component parts of the sales price could include discount room charges, facilitation fees, or other similar charges. Regardless of how such charges are presented to a user, these charges are included in the definition of “sales price” as defined by Iowa Code section 423A.2(1) “k” and are subject to the hotel and motel taxes.

253.5(2) *Obligations of lodging providers for rentals not involving lodging facilitators or lodging platforms.* A lodging provider must collect and remit the hotel and motel tax on the entire sales price of the rental if the transaction does not involve a lodging facilitator or lodging platform. In transactions that do not involve lodging facilitators or lodging platforms, only the lodging provider has a hotel and motel tax collection and remittance obligation on the transaction.

EXAMPLE 1: Lodging provider. H owns a hotel located in Iowa. H offers rooms for rent to transient guests. Users can book rooms directly with H—in person, by phone, or through H’s website—or through lodging facilitators. H is a lodging provider as defined in Iowa Code section 423A.2(1) “h” and must collect and remit hotel and motel tax.

EXAMPLE 2: Lodging provider—property management company. M offers property management and listing services on behalf of lake homeowners. O owns a lake home. O enters into an agreement with M, under which M will manage the property, list the property for rent, enter into rental agreements with users, and receive money from users for the rental of the property.

The lake home is lodging as defined in Iowa Code section 423A.2(1) “e.” M is a lodging provider as defined in Iowa Code section 423A.2(1) “h” as a consequence of operating and managing the lodging and making the lodging available for rent. Therefore, M must collect and remit the hotel and motel tax to the department.

EXAMPLE 3: Collection and remittance by a lodging provider. H operates a hotel and is a lodging provider. A user books a room by calling H’s telephone number and paying a sales price of \$100 to rent the room for one night. H’s hotel is located in a jurisdiction with a 7 percent locally imposed hotel and motel tax. H is required to charge the user \$112. H is required to add the \$5 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. H is required to add the \$7 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. H is required to remit \$12, the total hotel and motel tax, to the department. Iowa Code section 423A.5A provides more information about the collection and remittance of hotel and motel tax.

253.5(3) *Obligations of retailers in transactions involving lodging facilitators.* When a user rents lodging through a lodging facilitator, the lodging facilitator shall collect from the user the hotel and

motel tax on the entire sales price paid by the user to the lodging facilitator and the lodging provider shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging provider.

a. Remittance of tax when lodging facilitators do not charge the user a facilitation fee. If the lodging facilitator does not charge the user a facilitation fee, the lodging facilitator is required to transmit the entire hotel and motel tax collected from the user to the lodging provider. The lodging provider is required to remit the tax received from the lodging facilitator, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department.

EXAMPLE: H owns a hotel and is a lodging provider. A user books a room for one night at H's hotel using T, a travel agency. The total sales price is \$100. T coordinates the user's payment by collecting and transmitting the \$100 sales price plus tax from the user to H. T is a lodging facilitator. T does not retain any part of the user's \$100 payment nor impose an additional fee to the user for facilitating the transaction with H. After the user has stayed at H's hotel, T receives a \$20 commission from H. T and H are not affiliates.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The commission H pays to T is not a facilitation fee. Iowa Code section 423A.2(1) "d" provides more information on facilitation fees. Therefore, there is no hotel and motel tax applied to the commission paid to T. T is required to collect \$12 of hotel and motel tax (12 percent combined hotel and motel tax rate $\times$ \$100 sales price) and remit the \$12 to H when T facilitates payment of the sales price to H. H is required to receive the \$12 tax on the sales price from T and then remit the entire \$12 tax to the department. T does not have an obligation to remit any hotel and motel tax to the department on this transaction.

b. Remittance of tax when lodging facilitators charge the user a facilitation fee. If the lodging facilitator charges the user a facilitation fee, the lodging facilitator is required to transmit the portion of the hotel and motel tax attributable to the discount room charge that is charged by the lodging provider to the lodging provider and remit to the department the remaining hotel and motel tax, which represents tax on the facilitation fee charged to the user. The lodging provider is required to remit the tax received from the lodging facilitator, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department.

EXAMPLE 1: F operates an online travel company. On its website, F allows users to search for, book, and pay for hotel rooms. F's website includes listings from various hotels. Users are allowed to pay for the hotel room through a checkout page on F's website. F retains a portion of each sale as compensation for arranging the rental.

A user finds and selects a hotel room in Iowa on F's website. The user pays for the room through F's website. The lodging provider that owns the hotel is not an affiliate of F. The total price charged to the user includes an amount retained by F for arranging the rental of the hotel room. In this transaction, F is a lodging facilitator. The amount F retains from the user as compensation for arranging the rental is a facilitation fee. Iowa Code section 423A.2(1) "c," "d," and "f" provides more information about lodging facilitators and facilitation fees.

EXAMPLE 2: H operates a hotel and is a lodging provider. F operates an online travel company and is therefore a lodging facilitator. A user books a room at H's hotel through F's website. The total sales price charged to the user is \$100. The \$100 sales price includes a \$20 facilitation fee that is retained by F. H charges F a discount room charge of \$80.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The total price F must charge to the user is \$112, which is the sum of the sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax.

F is required to add the \$5 state-imposed tax separate and apart from the sales price and separate and apart from the locally imposed tax. F is required to add the \$7 locally imposed tax separate and apart from the sales price and separate and apart from the state-imposed tax. On any document F provides to the user confirming the transaction, F is required to separately state the sales price (\$100), the state-imposed tax (\$5), and the locally imposed tax (\$7). F is not required to identify to the user the portion of the sales price attributable to either the discount room charge or the facilitation fee.

F is required to remit to H that portion of hotel and motel taxes collected on \$80, the sales price that represents the discount room charge. F remits \$9.60 hotel and motel tax (i.e., 12 percent hotel and motel tax rate $\times$ \$80 discount room charge) to H. F remits \$2.40 hotel and motel tax (i.e., 12 percent hotel and motel tax rate $\times$ \$20 facilitation fee) to the department. H remits the \$9.60 hotel and motel tax to the department. Iowa Code section 423A.5A provides more information on the collection and remittance of hotel and motel tax.

EXAMPLE 3: Assume the same facts as in Example 2. However, at check-in time, the user upgrades with H to a larger room for an additional sales price of \$50. The user pays this additional \$50 directly to H. H is required to charge the user \$56, which is the sum of the additional sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax. H remits the \$6 hotel and motel tax, as well as the \$9.60 hotel and motel tax received from F as described in Example 2, to the department.

253.5(4) *Obligations of lodging platforms.* Where a retailer is a lodging platform, the retailer must collect and remit the hotel and motel tax on the entire sales price of the transaction to the department.

EXAMPLE 1: Z operates a home-sharing platform. Z allows individual property owners to list rooms or entire properties with sleeping accommodations for rent to transient guests on the home-sharing platform. Users search, book, and pay for lodging through Z's platform.

O lists O's house on Z's home-sharing platform. O is not an affiliate of Z. A user books and pays for O's listing using Z's home-sharing platform. In this transaction, Z is a lodging platform as described in Iowa Code section 423A.2(1) "g."

EXAMPLE 2: Z operates the home-sharing platform described in Example 1 above. O owns a cabin in Iowa. The cabin is located in a local jurisdiction that imposes a 7 percent locally imposed hotel and motel tax. O lists O's property for short-term rentals on Z's marketplace. O offers O's property for rent for a three-day weekend for \$900 and guests are also required to pay a \$20 towel fee and a \$50 cleaning fee. On this transaction, Z imposes a \$30 service charge on the user for processing the transaction on Z's website. A user reserves and pays for the cabin on Z's website.

The total sales price is \$1,000 (i.e., \$900 lake home rental + \$20 towel fee + \$50 cleaning fee + \$30 service charge) before taxes. Z is required to charge the user \$1,120. Z must add the \$50 state-imposed tax separate and apart from the sales price and separate and apart from the locally imposed tax. Z is required to add the \$70 locally imposed tax separate and apart from the sales price and separate and apart from the state-imposed tax. As a lodging platform, Z does not remit any part of the \$120 in tax to O. Instead, Z is required to remit the \$120 in tax to the department.

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.5A.

701—253.6(423A) Certification of funds.

253.6(1) *Certification of funds.* Within 45 days after the date that the monthly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund that is to be distributed to each city, county, and land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next certification.

253.6(2) *Revenues credited to local fund.* All locally imposed hotel and motel tax revenues received under Iowa Code chapter 423A are to be credited to the local transient guest tax fund. Revenues include all interest and penalties applicable to any locally imposed hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

This rule is intended to implement Iowa Code sections 423A.6 and 423A.7.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9043C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rulemaking related to fuel excise taxes**

The Revenue Department hereby rescinds Chapter 259, “Administration,” and adopts a new Chapter 259, “Fuel Tax Administration”; rescinds Chapter 260, “Motor Fuel and Undyed Special Fuel,” and adopts a new chapter with the same title; rescinds Chapter 261, “Liquefied Petroleum Gas—Compressed Natural Gas—Liquefied Natural Gas,” and adopts a new Chapter 261, “Liquefied Petroleum Gas—Compressed Natural Gas—Liquefied Natural Gas—Hydrogen”; and rescinds Chapter 262, “Electric Fuel Excise Tax,” and adopts a new chapter with the same title, Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 423.25, 452A.2(15), 452A.8(2)“c,” 452A.8(2)“d,” 452A.8(2)“e”(3), 452A.8(4), 452A.15(6), 452A.17(1)“a”(6), 452A.41(3), 452A.59, 452A.68(3), 452A.72, 452A.76(2) and 452A.85(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 452A and sections 422.110 and 423.3.

Purpose and Summary

The purpose of this rulemaking is to rescind and adopt new Chapters 259, 260, 261, and 262. These chapters describe the Department’s interpretation of Iowa Code chapter 452A as it applies to fuel excise taxes. Chapter 259 contains rules on the administration of all fuel excise taxes. Chapter 260 provides guidance on the collection and remittance of the excise tax on motor fuel and undyed special fuel. Chapter 261 provides such guidance on the excise tax on liquified petroleum gas, compressed natural gas, and liquefied natural gas. Chapter 262 provides such guidance on the excise tax on electric fuel. The Department revised these chapters to remove rules and portions of the rules that were determined obsolete, inaccurate, unnecessary, or duplicative statutory language as required by Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 22, 2025, as **ARC 8739C**. A public hearing was held on the following date(s):

- February 11, 2025
- February 12, 2025

No one attended the public hearings.

The Iowa Taxpayers’ Association President and CEO Nate Ristow provided written comment regarding statements on fuel invoices for reefer units. The Department made revisions to paragraph 260.7(8)“b” based on the commenter’s feedback.

Adoption of Rulemaking

This rulemaking was adopted by the Department on February 27, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 701—Chapter 259 and adopt the following **new** chapter in lieu thereof:

CHAPTER 259
FUEL TAX ADMINISTRATION

701—259.1(452A) Definitions. For purposes of 701—Chapters 259, 260, 261, and 262, the following definitions apply:

“B-20” means biodiesel blended fuel formulated with a minimum percentage of 20 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2. A similar notation refers to biodiesel blended fuel containing other percentages of biodiesel. For example, “B-5” means biodiesel blended fuel formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2.

“Biodiesel distribution percentage” means the number of gallons of biodiesel blended fuel classified as B-20 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state during the determination period. The determination period is the previous calendar year.

“Carrier” means and includes any person who operates or causes to be operated any commercial motor vehicle on any public highway in this state.

“End user” of special fuel means a person who has purchased a minimum of 240,000 gallons of special fuel each year in the two preceding years who elects to make delayed payments to a licensed supplier and must use electronic funds transfer.

“Ethanol distribution percentage” means the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state during the determination period. The determination period is the previous calendar year.

“Foreign supplier” means a person licensed as a supplier to collect and report the tax, but who does not have jurisdictional connections with this state.

“Fuel(s)” means and includes motor fuel, special fuel, and electric fuel as defined in Iowa Code chapter 452A.

“Invoiced gallons” means gross gallons as shown on the bill of lading or manifest.

“Motor fuel” means a substance or combination of substances that is intended to be or is capable of being used for the purpose of operating an internal combustion engine, including but not limited to a motor vehicle, and is kept for sale or sold for that purpose and includes the following:

1. All products commonly or commercially known or sold as gasoline (including ethanol blended gasoline, casinghead, and absorption or natural gasoline) regardless of their classifications or uses, and including transmix that serves as a buffer between fuel products in the pipeline distribution process.

2. Any liquid advertised, offered for sale, sold for use as, or commonly or commercially used as a fuel for propelling motor vehicles, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products (American Society of Testing Materials designation D-86), shows not less than 10 percent distilled (recovered) below 347°F (175°C) and not less than 95 percent distilled (recovered) below 464°F (240°C).

“Motor fuel” does not include special fuel and does not include liquefied gases that would not exist as liquids at a temperature of 60°F and a pressure of 14 7/10 pounds per square inch absolute, or naphthas and solvents unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within paragraph “2,” in which event the resulting product shall be deemed to be motor fuel. “Motor fuel” also does not include methanol unless blended with other motor fuels for use in an aircraft or for propelling motor vehicles.

“Person” means and includes natural persons, partnerships, firms, associations, corporations, representatives appointed by any court, and political subdivisions of this state or any other group or combination acting as a unit and the plural as well as the singular number applies.

“Petrodiesel” means petroleum-based diesel fuel. Petrodiesel contains no biodiesel.

“Reefer” or *“reefer unit”* means a refrigeration unit powered by fuel.

“Taxpayer” means anyone responsible for paying fuel taxes directly to the department of revenue under Iowa Code chapter 452A.

“Withdrawn from terminal” means physical movement from a supplier to a distributor or eligible end user or from an alcohol manufacturer to a nonterminal location and includes an importer going out of state and obtaining fuel from a terminal and bringing the fuel into the state, and a restrictive supplier bringing fuel into the state even though not purchased directly from a terminal. Exchange of product by suppliers while in the distribution channel and the physical movement of alcohol from an alcohol manufacturer to an Iowa licensed supplier’s alcohol storage at a terminal are not to be considered “withdrawn from terminal.”

This rule is intended to implement Iowa Code sections 452A.2, 452A.57 and 452A.59.

701—259.2(452A) Taxpayers required to keep records.

259.2(1) The records required to be kept by this rule must be preserved for a period of three years and will be open for examination by the department during this period of time. The department, after an audit and examination of the records, may authorize the disposal of the records required to be kept upon written request by the taxpayer. 701—subrule 11.3(3) contains additional information for taxpayers using an electronic data interchange.

259.2(2) Every supplier or restrictive supplier required to file a monthly return under Iowa Code section 452A.8, every importer required to file a semimonthly return under Iowa Code section 452A.8, and every exporter, terminal or nonterminal storage facility operator, distributor, blender, and dealer is required to keep and preserve records in compliance with 701—Chapter 11. Such persons are also required to keep the following records relating to the purchase or sale of fuel:

- a. Copies of bills of lading or manifests.
- b. Copies of sales and purchase invoices.
- c. Sales records and purchase records.
- d. Copies of filed returns and supporting schedules.
- e. Record of payment.
- f. Export schedules.
- g. Delivery tickets.
- h. Copies of reports, returns, and supporting schedules filed with the importing state.

i. Exemption certificates.

This rule is intended to implement Iowa Code section 452A.8.

701—259.3(452A) Audit—costs.

259.3(1) The department has the right and duty to examine or cause to be examined the books, records, memoranda, or documents of a taxpayer for the purpose of verifying the correctness of a return filed or determining the tax liability of any taxpayer.

259.3(2) The costs incurred in examining the records of a taxpayer are at the taxpayer's expense when the records are kept at an out-of-state location. Cost will include meals, lodging, and travel expenses, but will not include salaries of department personnel.

This rule is intended to implement Iowa Code sections 452A.10, 452A.62, 452A.55, and 452A.69.

701—259.4(452A) Estimate gallonage.

259.4(1) *Inadequate records.* In the event the taxpayer's records are lacking or inadequate to support any return filed by the taxpayer, or to determine the taxpayer's liability, the department has the power to estimate the gallonage upon which tax is due.

259.4(2) *Determination of estimate.* Estimated gallonage will be based upon such factors as, but not limited to, the following:

- a.* Prior experience of the taxpayer;
- b.* Taxpayers in similar situations;
- c.* Industry averages;
- d.* Records of suppliers or customers; and
- e.* Other pertinent information the department may possess, obtain or examine.

This rule is intended to implement Iowa Code section 452A.64.

701—259.5(452A) Timely filing of returns, reports, remittances, applications, or requests.

259.5(1) The returns, reports, remittances, applications, or requests required under Iowa Code chapter 452A or 701—Chapters 259 through 262 shall be filed through GovConnectIowa unless otherwise required by the department.

259.5(2) Such documents provided by mail are deemed filed within the required time if:

- a.* Postpaid,
- b.* Properly addressed, and
- c.* Postmarked on or before midnight of the day on which due and payable.

Any return that is not signed and any return that does not contain substantially all of the pertinent information are not considered "filed" until such time as the taxpayer signs or supplies the information to the department.

259.5(3) The filing of a return within the period prescribed by law and payment of the tax required to be shown thereon are simultaneous acts, unless remittance is required to be transmitted electronically; and if either condition is not met, a penalty will be assessed. Remittances transmitted electronically are considered to have been made on the date the remittance is added to the bank account designated by the treasurer of the state of Iowa. If the final filing date falls on a Saturday, Sunday, or holiday, the next day that is not a Saturday, Sunday, or holiday is the final filing date.

259.5(4) The director may require by rule that reports and returns be filed by electronic transmission.

259.5(5) All licensees must file returns by electronic transmission. All suppliers, restricted suppliers, importers, terminals, blenders, and nonterminal storage facilities with at least 5,000 gallons of product on their return or report must also file the schedules which support the return or report by electronic transmission.

259.5(6) All returns, reports, remittances, applications, or requests should be mailed to: Motor Fuel Refunds, Iowa Department of Revenue, Tax Management Division—Fuel Tax, P.O. Box 10465, Des Moines, Iowa 50306-0465, unless electronic transmission is required.

In the event a dispute arises as to the time of filing, or a return, report, or remittance is not received by the department, the provisions of Iowa Code section 622.105 are controlling. This rule applies only when the document is not received or the postmark on the envelope is illegible, erroneous, or omitted.

This rule is intended to implement Iowa Code sections 452A.8 and 452A.61.

701—259.6(452A) Statute of limitations, supplemental assessments and refund adjustments.

259.6(1) After a return is filed, the department must examine it, determine fuel taxes due, and give notice of assessment to the taxpayer. Iowa Code sections 452A.64 and 452A.67 and rule 701—259.5(452A) contain additional information on the failure to file returns and the period for examination.

259.6(2) The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

259.6(3) If the assessment or refund adjustment is appealed (protested under rule 701—7.9(17A)) and is resolved, whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

This rule is intended to implement Iowa Code section 452A.67.

701—259.7(452A) Extension of time to file. The department may grant an extension for the filing of any required return or tax payment or both.

259.7(1) *Application for extension.* In order for an extension to be granted, the application requesting the extension must be filed, in writing, with the department prior to the due date of the return or remittance. In determining whether an application for extension is timely filed, the provisions of rule 701—259.5(452A) shall apply. The application for extension must be accompanied by an explanation of the circumstances justifying such extension.

259.7(2) *Length of extension.* The extension period will not exceed 30 days.

259.7(3) *Penalties in the event of an extension.* In the event an extension is granted, the penalties under Iowa Code section 452A.65 applicable to late-filed returns or remittances will not accrue until the expiration of the extension period. The interest on tax due under the same section will accrue as of the original filing date.

This rule is intended to implement Iowa Code section 452A.61.

701—259.8(452A) Penalty and interest. Rules 701—10.6(421) and 701—10.2(421) contain information on failure to timely file a return or failure to timely pay the tax. Rule 701—10.8(421) contains information on penalty exceptions. Rule 701—10.72(452A) contains additional information on interest on refunds. Rule 701—10.71(421) contains additional information on penalty and enforcement provisions.

This rule is intended to implement Iowa Code chapter 452A.

701—259.9(452A) Application of remittance. All payments are to be first applied to the penalty and then to the interest. The balance, if any, will then be applied to the amount of tax due. If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of the payment applies to the tax, and the penalty and interest are based on the unpaid portion of the tax. If the department determines there is additional tax due from a taxpayer, interest and penalty accrue on that amount from the date it should have been reported and paid.

This rule is intended to implement Iowa Code sections 452A.59, 452A.65 and 452A.66.

701—259.10(452A) Reports, returns, records—variations.

259.10(1) The department will prescribe and furnish forms upon which reports, returns, and applications are to be made to the department under Iowa Code chapter 452A. Claims for refund will be made on forms provided by the department or in any other manner as prescribed by the director.

Licensees may substitute forms for their use, other than official forms, if all the requirements in department rule 701—8.3(17A) are met.

259.10(2) If the information required in these documents is presented to the department on forms or in a manner other than the prescribed form, or approved substitute form, the return, application, or claim for refund or credit shall not be deemed “filed.” The forms may be furnished by the department (except those pertaining to division III interstate operations, which are available from the department of transportation) and, therefore, the fact that the reporting party does not have the prescribed form is not an excuse for failure to file.

259.10(3) The department may also prescribe the form of the records that the reporting parties are required to keep in support of the reports/returns they file. The department may approve the form of the records that are being kept by any reporting party and must approve the form of record being kept if that form contains all of the information on the prescribed form, the information is compiled in such a manner as to make it easily ascertainable by department personnel, and substantially complies with the prescribed form.

This rule is intended to implement Iowa Code section 452A.60.

701—259.11(452A) Invoices.

259.11(1) *Requirements for invoices.* Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A or these rules, the invoice must:

- a. Be prepared by someone other than the purchaser and include the seller’s name, address, and identification number.
- b. Include the purchaser’s name and address.
- c. Contain a serial number of three or more digits.
- d. Include the calendar date of purchase.
- e. Indicate the type of fuel purchased. Diesel fuel must be designated as dyed or undyed.
- f. Indicate the quantity of fuel purchased in gross gallons.
- g. Indicate the total purchase price and show separately the amount of state and federal fuel tax included in the purchase price or include a statement that all state and applicable federal taxes are included in the purchase price.
- h. For ethanol blended gasoline or biodiesel blended fuel, state its designation as provided in Iowa Code section 214A.2.
- i. Be prepared on paper that will prevent erasure or alteration or on another form approved by the department.

259.11(2) *Credit card invoices.* Credit card invoices are acceptable if they meet substantially all the requirements of rule 701—259.11(452A). For refund purposes, presentation of a credit card invoice or billing statement is prima facie evidence that the fuel tax has been paid.

This rule is intended to implement Iowa Code sections 452A.10, 452A.12, and 452A.60.

701—259.12(452A) Taxes erroneously or illegally collected.

259.12(1) *Generally.* Licensees are entitled to a refund of taxes, penalty, and interest erroneously or illegally collected by the department.

259.12(2) *Refund requests.* The request for refund must be (1) in writing, (2) filed with the department within three years of the time the tax was paid (3) filed by the licensee who remitted the tax to the department, and (4) accompanied by documentation supporting the claim for refund.

a. *Computational errors.* If the erroneous collection was the result of a computational error on the part of the taxpayer and that error is discovered by the department during an examination of the taxpayer’s records within three years of the overpayment, the taxes will be refunded and a written request will not be necessary.

b. *Penalties and interest.* If the request includes the return of erroneously or illegally collected (assessed) penalty or interest, the interest or penalty shall be refunded in the same proportion as the tax.

c. *Sales or use tax.* A refund issued under this rule will be reduced by sales or use tax if applicable. There is no minimum refund amount for refunds claimed under the provisions of Iowa Code section 452A.72.

259.12(3) Amended returns.

- a. *Generally.* Amended returns must be filed for the tax periods in which an error occurred.
- b. *Motor fuel and undyed special fuel suppliers.* Motor fuel and undyed special fuel suppliers must inform the department upon which bill(s) of lading, by number, and upon which monthly return(s) the tax was erroneously paid. The gallonage upon which a refund is requested on motor fuel or undyed special fuel must be reduced by the distribution allowance provided in Iowa Code section 452A.5.
- c. *Restrictive suppliers, importers, and blenders.* Restrictive suppliers, importers, and blenders must inform the department upon which bill(s) of lading or invoice, by number, and upon which monthly or semimonthly return(s) the tax was erroneously paid and an explanation of the erroneous payment. An amended return must be filed for the tax period in which the error occurred.

This rule is intended to implement Iowa Code section 452A.72.

701—259.13(452A) Information confidential.

259.13(1) Generally. Iowa Code section 452A.63, which makes all information obtained from reports, returns, or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, deputies, auditors, agents, officers, or other employees of the department. The information may be divulged to appropriate public officials, including:

- a. Member(s) of the Iowa general assembly,
- b. Committees of either chamber of the Iowa legislature,
- c. State officers,
- d. Persons who have responsibility for the enforcement of Iowa Code chapter 452A,
- e. Officials of the federal government entrusted with enforcement of federal motor vehicle fuel tax laws, and
- f. Officials of other states who have responsibility to enforce motor vehicle fuel tax laws and who will furnish like information to the department.

259.13(2) Exception. An exception to this rule is that the appropriate state agency may make available to the public the total gallons of motor fuel, undyed special fuel, and ethanol blended gasoline withdrawn from terminals or imported into the state by suppliers, restrictive suppliers, and importers. The public request must be made within 45 days following the last day of the month in which the tax is required to be paid.

This rule is intended to implement Iowa Code section 452A.63.

701—259.14(452A) Audit and examination. The compliance division of the department may examine reports, returns, and records; make audits; and determine the correct amount of tax, interest, penalties, and fines due and take all actions authorized to collect the same, subject to review by or appeal to the director.

This rule is intended to implement Iowa Code sections 452A.62 and 452A.76.

701—259.15(452A) Practice and procedure before the department of revenue. The practice and procedure before the department is governed by Iowa Code chapter 17A and 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.

701—259.16(452A) Time for filing an appeal. Any person wishing to contest an assessment, denial of all or any portion of a refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding, must file an appeal as directed in 701—Chapter 7. If a taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payments pursuant to 701—subrule 7.9(3) and file a refund claim within the period provided by law for filing claims.

This rule is intended to implement Iowa Code section 452A.64.

701—259.17(452A) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the tax, require any person subject to the tax to file with the department a bond in an amount as the director may fix, or in lieu of the bond, securities approved by the director in an amount as the director may prescribe. Pursuant to the statutory authorization in Iowa Code sections 423.35 and 452A.66, the director has determined that the following procedures will be instituted with regard to bonds:

259.17(1) When required.

a. Classes of business. When the director determines, based on departmental records, other state or federal agency statistics, or current economic conditions, that certain segments of the petroleum business community are experiencing above average financial failures such that the collection of the tax might be jeopardized, a bond or security will be required from every licensee operating a business within this class unless it is shown to the director's satisfaction that a particular licensee within a designated class is solvent and that the licensee previously timely remitted the tax. If the director selects certain classes of licensees for posting a bond or security, rulemaking will be initiated to reflect a listing of the classes in the rules.

b. New applications for fuel tax permits. Notwithstanding the provisions of paragraph “*a*” above, the director has determined that importers will be required to post a bond in the amount of \$25,000 and other applicants for a new fuel tax permit will be requested to post a bond or security if (1) it is determined upon a complete investigation of the applicant's financial status that the applicant would likely not be able to timely remit the tax, or (2) the new applicant held a prior fuel tax license and the remittance record of the tax under the prior license falls within one of the conditions in paragraph “*c*” below, or (3) the department experienced collection problems while the applicant was engaged in business under the prior license, or (4) the applicant is substantially similar to a person who would have been required to post a bond under the guidelines as set forth in “*c*” or such person had a previous fuel tax permit revoked. The applicant is “substantially similar” to the extent that said applicant is owned or controlled by persons who owned or controlled the previous licensee. For example, X, a corporation, had a previous fuel tax permit revoked. X is dissolved and its shareholders create a new corporation, Y, which applies for a fuel tax permit. The persons or stockholders who controlled X now control Y. Therefore, Y will be requested to post a bond or security.

c. Existing licensees—amount of bond or security. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. See rule 701—259.24(452A). However, the late filing of the return or the late payment of the tax will not count as a delinquency if the license holder can satisfy one of the conditions set forth in Iowa Code section 421.27, penalty waiver.

(1) Suppliers will be requested to post a bond or security when they have had one or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past six months. The bond or security will be an amount sufficient to cover six months' fuel tax liability or \$5,000, whichever is greater.

(2) Restrictive suppliers will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$2,000, whichever is greater.

(3) Blenders will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past six months. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$2,000, whichever is greater.

(4) Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$500, whichever is greater.

d. Bond or security required. Eligible purchasers and end users will be required to post a bond or security when they have failed to pay the tax to a supplier. They will not be allowed to register as an eligible purchaser or end user again until the bond or security requirement has been complied with.

The bond or security will be an amount sufficient to cover six months' fuel tax based on previous purchases.

e. Waiver of bond. If a licensee has been requested to post a bond or security or if an applicant for a license has been requested to post a bond or security, upon the filing of the bond or security if the licensee maintains a good filing record for a period of two years, the licensee may request that the department waive the continued bond or security requirement. Importer bonds will not be waived.

259.17(2) *Type of security or bond.* When it is determined that a licensee or applicant for a fuel tax permit is required to post collateral to secure the collection of the fuel tax, the following types of collateral will be considered as sufficient: cash, surety bonds, securities, or certificates of deposit. "Cash" means guaranteed funds including, but not limited to, cashier's check, money order, or certified check. If cash is posted as a bond, the bond will not be considered filed until the final payment is made, if paid in installments. A certificate of deposit must have a maturity date of 24 months from the date of assignment to the department. An assignment from the bank must accompany the original certificate of deposit filed with the department for the bank to be released from liability. When a licensee elects to post cash rather than a certificate of deposit as a bond, conversion to a certificate of deposit will not be allowed. When the licensee is a corporation, an officer of the corporation may assume personal responsibility for the payment of fuel tax. Security requirements for the officer will be evaluated as provided in 259.17(1) above as if the officer applied for a fuel tax license as an individual.

259.17(3) *Existing license holders.* Existing license holders may be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or filing returns timely during the past 12 months when filing returns on a monthly basis. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$500, whichever is greater. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. However, the late filing of the return or late payment of the tax will not count as a delinquency if the license holder can satisfy one of the conditions set forth in Iowa Code section 421.27 (penalty waiver). The department may waive the bond under circumstances described in paragraph 259.17(1) "e."

259.17(4) *Type of security.* The types of security or bond considered as sufficient are described in subrule 259.17(2).

This rule is intended to implement Iowa Code sections 423.35 and 452A.66.

701—259.18(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses.

259.18(1) *Requirements for license.* In order to become licensed as a fuel supplier, restrictive supplier, importer, exporter, blender, dealer, or user, the person must electronically file an application with the department. The license is valid until revoked or canceled and is nonassignable. The application is to include but not be limited to the following information:

- a. The name under which the licensee will transact business in the state.*
- b. The location of the principal place of business of the licensee and the mailing address if different.*
- c. The social security number or federal identification number of the licensee.*
- d. The type of ownership.*
- e. The name and complete residency address of the owner(s) of the business or, if a corporation or association, the names and addresses of the principal officers.*
- f. The type of license being requested.*
- g. Exporters only—the state and license number for that state in which the fuel is being exported.*

259.18(2) *Assignment of a license.* Licenses are not assignable. A person must apply for a new license when:

- a. Buying the business of another license holder, even if the new owner operates under the same name.*
- b. Changing of the name under which the licensee conducts business.*
- c. Merging or otherwise combining businesses, resulting in a new or different entity.*

259.18(3) *Denial of a license.* The department may deny a license to any applicant who may be denied a sales tax permit under rule 701—201.10(423). Rule 701—201.10(423) also contains a characterization of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. Rule 701—7.9(17A) contains information about rights to appeal denial of an application for a license.

259.18(4) *Revocation of a license.* The department may revoke the license of any licensee whose sales tax permit may be revoked under rule 701—201.11(423). Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. The department may also revoke the license of any licensee who abuses the privileges for which the license was issued; who files a false return; or who fails to file a return (including supporting schedules), pay the full amount of tax due, produce records requested, or extend cooperation to the department. Rule 701—7.9(17A) contains more information about rights to appeal.

259.18(5) *Efficient administration of motor fuel laws.* When necessary for the efficient administration of Iowa Code chapter 452A, the director may regard persons or facilities in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators. The department will notify the person or facility of the various requirements under the motor vehicle fuel tax laws and will ensure that a license is issued.

This rule is intended to implement Iowa Code sections 452A.4 and 452A.6.

701—259.19(452A) Reinstatement of license canceled for cause.

259.19(1) *Reinstatement generally.* A license canceled for cause will be reinstated only on such terms and conditions as the cause may warrant. Terms and conditions will include payments of any applicable fuel tax liability including interest and penalty that is due the department.

259.19(2) *Requirements after cancellation.* Upon the cancellation of a motor vehicle fuel tax license, the licensee will be required to pay all delinquent fuel tax liabilities including interest and penalty, to file returns, and to post a bond and have refrained from activities requiring a license under Iowa Code sections 452A.4 and 452A.6 during the waiting period as required by the director prior to the reinstatement or issuance of a new motor vehicle fuel tax license.

259.19(3) *Waiting periods.* The director may impose a waiting period during which the licensee must refrain from activities requiring a license pursuant to the penalties provided in Iowa Code section 452A.74.

a. Waiting periods of up to 90 days may be imposed as a condition for the restoration of a license or the issuance of a new license after cancellation for cause.

b. The department may require a statement that the licensee has fulfilled all requirements of said order canceling the license for cause and the dates on which the license holder refrained from restricted activities.

259.19(4) *Offenses.* Each of the following situations will be considered one offense for the purpose of determining the waiting period to reinstate a license canceled for cause or issuing a new license after being canceled for cause unless otherwise noted.

a. Failure to post a bond as required.

b. Failure to file a report or return timely.

c. Failure to pay tax timely (including unhonored payments, failure to pay and late payments).

d. Failure to file a return and pay tax as shown on the return (counts as one offense).

259.19(5) *Length of waiting period.* The hearing officer or director of revenue may order a waiting period after the cancellation for cause not to exceed:

a. Waiting periods for multiple offenses.

(1) Five days for one through five offenses.

(2) Seven days for six or seven offenses.

(3) Ten days for eight or nine offenses.

(4) Thirty days for ten offenses or more.

b. Waiting periods for multiple cancellations. The hearing officer or director of revenue may order a waiting period not to exceed:

(1) Forty-five days if the second cancellation for cause occurs within 24 months of the first cancellation for cause.

(2) Sixty days if the second cancellation for cause occurs within 18 months of the first cancellation for cause.

(3) Ninety days if the second cancellation for cause occurs within 12 months of the first cancellation for cause.

(4) Ninety days if the third cancellation for cause occurs within 36 months of the second cancellation for cause.

This rule is intended to implement Iowa Code section 452A.68.

701—259.20(452A) Fuel used in implements of husbandry. Dyed special fuel is exempt from tax. Motor fuel or undyed special fuel is subject to refund when used in implements of husbandry as defined in Iowa Code section 321.1(32). A vehicle as defined in Iowa Code section 321.1(90) is not an implement of husbandry. The department of revenue, the state department of transportation, the department of public safety, and any other peace officer as requested by such department is empowered to enforce the use of special fuel or motor fuel in any illegal manner, including the inspection and testing of fuel in the fuel supply tank of an implement of husbandry.

This rule is intended to implement Iowa Code section 452A.76.

701—259.21(452A) Excess tax collected. If a licensee collects tax on exempt fuel or collects more tax than is due, the licensee must return the excess tax paid to the purchaser if the tax has not been paid to the department. If the tax has been paid to the department, the department will return the excess tax paid to the consumer upon appropriate documentation.

This rule is intended to implement Iowa Code section 452A.22.

701—259.22(452A) Retailer gallons report.

259.22(1) The department is required to compile information reported to it by retail dealers regarding the number of gallons of the various fuel classifications sold by retail dealers in the previous calendar year and submit a report to the governor and the legislative services agency by April 1 of each year.

a. Each retail dealer is required to file a report with the department detailing the number of motor fuel gallons sold during the previous calendar year on both a companywide basis and a site-by-site basis as required by the department.

b. The retail dealer report is due by January 31 following the close of the calendar year.

259.22(2) The report filed by the department will include information in the aggregate relating to total sales of gasoline, ethanol blended gasoline, diesel fuel, and biofuels. The report will also include appropriate percentage sales of various fuel products. The report will not include individual retail dealer information, trade secret information, or confidential information.

259.22(3) Any entity selling or otherwise providing gasoline, ethanol blended gasoline, diesel fuel, or biofuels in this state to an end user will be presumed to be a retail dealer under Iowa Code section 452A.2(40).

This rule is intended to implement Iowa Code section 452A.33.

ITEM 2. Rescind 701—Chapter 260 and adopt the following **new** chapter in lieu thereof:

CHAPTER 260 MOTOR FUEL AND UNDYED SPECIAL FUEL

701—260.1(452A) Tax rates—time tax attaches—responsible party.

260.1(1) *Fuel distribution percentages.*

a. *Ethanol distribution percentage.*

(1) Except as otherwise provided in this paragraph, this paragraph shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. An excise tax of 30 cents is imposed on each gallon of motor fuel other than ethanol blended gasoline classified as E-15 or higher.

(2) On and after July 1, 2030, an excise tax of 30 cents is imposed on each gallon of ethanol blended gasoline classified as E-15 or higher.

(3) Before July 1, 2030, the rate of the excise tax on ethanol blended gasoline classified as E-15 or higher shall be based on the ethanol distribution percentage as specified in Iowa Code section 452A.3 and subparagraph 260.1(1)“a”(4). The ethanol distribution percentage is the number of gallons of ethanol blended gasoline classified as E-15 or higher that are distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. The department shall determine the percentage for each determination period beginning January 1 and ending December 31 based on data from reports filed pursuant to Iowa Code section 452A.33. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

(4) The rate of the excise tax on ethanol blended gasoline classified as E-15 or higher is as follows:

Ethanol Distribution Percentage	Per Gallon Excise Tax on E-15 or Higher
0% to 10%	\$0.240
>10% to 12%	\$0.245
>12% to 14%	\$0.250
>14% to 16%	\$0.255
>16% to 18%	\$0.260
>18% to 20%	\$0.265
>20% to 22%	\$0.270
>22% to 26%	\$0.275
>26% to 35%	\$0.280
>35% to 45%	\$0.285
>45% to 65%	\$0.290
>65% to 85%	\$0.292
>85% to 95%	\$0.295
>95% to 100%	\$0.300

b. Biodiesel distribution percentage.

(1) Except as otherwise provided in this paragraph, the rate of the excise tax on each gallon of special fuel for diesel engines of motor vehicles used for any purpose for the privilege of operating motor vehicles in this state, other than biodiesel blended fuel classified as B-20 or higher, is 32.5 cents.

1. Except as otherwise provided in this paragraph, this paragraph shall apply to the excise tax imposed on each gallon of biodiesel blended fuel classified as B-20 or higher used for any purpose for the privilege of operating motor vehicles in this state.

2. On and after July 1, 2030, the rate of the excise tax on each gallon of biodiesel blended fuel classified as B-20 or higher is 32.5 cents.

3. Before July 1, 2030, the rate of the excise tax shall be based on the biodiesel distribution percentage as specified in Iowa Code section 452A.3 and subparagraph 260.1(1)“b”(3). The biodiesel distribution percentage is the number of gallons of biodiesel blended fuel classified as B-20 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state. The department shall determine the percentage for each determination period beginning January 1 and ending December 31 based on data from reports filed pursuant to Iowa Code section 452A.33. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

(2) The determination period for the biodiesel distribution percentage is January through December each calendar year.

(3) The rate of the excise tax on biodiesel blended fuel classified as B-20 or higher is as follows:

Biodiesel Distribution Percentage	Per Gallon Excise Tax on B-20 or Higher
0% to 50%	\$0.295
>50% to 55%	\$0.298
>55% to 60%	\$0.301
>60% to 65%	\$0.304
>65% to 70%	\$0.307
>70% to 75%	\$0.310
>75% to 80%	\$0.313
>80% to 85%	\$0.316
>85% to 90%	\$0.319
>90% to 95%	\$0.322
>95% to 100%	\$0.325

260.1(2) *Attachment, payment, and remittance of tax.*

a. Attachment of tax. The tax attaches when the fuel is withdrawn from a terminal or imported into Iowa.

b. Payment of tax. The tax is payable to the department by the supplier, restrictive supplier, importer, blender, or any person who owns the fuel at the time it is brought into the state by a restrictive supplier or importer or any other person who possesses taxable fuel upon which the tax has not been paid. In the event a licensee sells fuel upon which the tax has not been paid to a second licensee of the same license type, the first licensee, which would be the seller, shall remit the tax to the department unless mutually agreed upon by both licensees of the transaction that the second licensee shall remit the tax to the department.

c. Remittance of tax.

(1) Suppliers, restrictive suppliers, and blenders. The tax is to be remitted to the department by a supplier, restrictive supplier, or blender by the last day of the month following the month in which the fuel is withdrawn from a terminal or imported.

(2) Importers. The tax is to be remitted by an importer by the last day of the month for fuel imported in the first 15 days of the month and by the fifteenth day of the following month for fuel imported after the fifteenth day of the previous month.

(3) Nonlicensees. Nonlicensees who possess taxable fuel upon which the tax has not been paid must file returns and pay the tax the same as a restrictive supplier (monthly). All licensees must make payment by electronic funds transfer.

260.1(3) *Inventory tax.* Retailers, eligible purchasers, and other persons having title to motor fuel, undyed special fuel, or hydrogen in storage and held for sale on the effective date of an increase in the excise tax rate, including an increase in the excise tax rate due to a reclassification of fuel types, imposed on motor fuel, undyed special fuel, or hydrogen are subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel or undyed special fuel that will be subject to the increased excise tax rate. Suppliers and other persons holding fuel that has not yet been taxed are not subject to the inventory tax.

a. Persons subject to the tax imposed under this subrule shall take an inventory to determine the gallonage in storage for purposes of determining the tax and shall report the gallonage and pay the tax due within 30 days of the prescribed inventory date.

b. The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage. The inventory tax rate is equal to the increased excise tax rate less the previous excise tax rate. The inventory tax does not apply to an increase in the tax rate of a specified fuel, except for compressed natural gas, unless the increase in the tax rate of that fuel is in excess of one-half cent per gallon.

This rule is intended to implement Iowa Code sections 452A.3, 452A.8 and 452A.85.

701—260.2(452A) Exemption.

260.2(1) *Exported fuel.* Motor fuel or undyed special fuel sold for export or exported from this state to another state, territory, or foreign country is exempt from the excise tax.

a. The fuel is deemed sold for export or exported only if the bill of lading or manifest indicates that the destination of the fuel withdrawn from the terminal is outside the state of Iowa. The mode of transportation is not of consequence.

b. In the event fuel is taxed and then subsequently exported, an amount equal to the tax previously paid will be allowable as a refund, upon receipt by the department of the appropriate documents, to the party who originally paid the tax.

c. If the sale of exported fuel is completed in Iowa, then the sale is subject to Iowa sales tax if it is not exported for resale or otherwise exempt from sales tax. The sale is completed in Iowa if the foreign purchaser takes physical possession of the fuel in this state (rule 701—220.2(423)).

260.2(2) *Exempt purposes.* “Exempt purposes” as they relate to dyed fuel requirements in Iowa Code section 452A.3(3) “*b*” are described in Iowa Code section 452A.17(1) “*a*.” This exemption does not apply to fuel used for idle time, power takeoffs, reefer units, or pumping credits, or fuel used by contract carriers.

This rule is intended to implement Iowa Code sections 452A.3 and 452A.17.

701—260.3(452A) Responsibilities of blenders at nonterminal locations.

260.3(1) *Generally.* A person who blends ethanol blended gasoline or biodiesel blended fuel at a nonterminal location must:

a. Obtain a blender’s license. Blending ethanol with gasoline, or blending biodiesel with petrodiesel, may result in additional tax due or an allowable refund depending on the ethanol content of the mixture and the tax paid on its components.

b. Make payments of any additional tax due that may result from blending depending on the content of the mixture.

c. Obtain a refund permit to receive allowable refunds of any overpayment of tax that may result from blending depending on the content of the mixture.

EXAMPLE 1: A blender blends three parts ethanol E-100 with 17 parts gasoline to create ethanol blended gasoline classified as E-15 or higher. The blended product is taxed as ethanol blended gasoline E-15 or higher, and the blender may be due a refund for excess tax paid on the gasoline used to create the blended product.

EXAMPLE 2: A blender blends one-part biodiesel B-100 with four parts petrodiesel to create biodiesel blended fuel classified as B-20 or higher. The blended product is taxed as biodiesel B-20 or higher undyed, and the blender may be due a refund for excess tax paid on the petrodiesel used to create the blended product.

EXAMPLE 3: A blender blends one part biodiesel B-100 with 19 parts petrodiesel to create biodiesel blended fuel classified as B-5. The blended product is taxed as special fuel undyed, and the blender may owe additional tax to the department on the biodiesel B-100 used to create the blended product.

EXAMPLE 4: A blender blends one part biodiesel blended fuel classified as B-20 with five parts biodiesel blended fuel classified as B-2 to create biodiesel blended fuel classified as B-5. The blended product is taxed as special fuel undyed other than B-20 or higher, and the blender may owe additional tax to the department on the biodiesel blended fuel classified as B-20 used to create the blended product.

260.3(2) *Blenders of ethanol blended gasoline.*

a. *E-15 or higher additional tax due example where ethanol is owned by a blender and gasoline is purchased by the blender from a supplier.*

(1) A blender who owns the ethanol (supplier) being used to blend with gasoline must purchase the gasoline from a supplier and pay the appropriate tax to the supplier.

(2) The blender must obtain a blender’s license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due.

(3) Example. For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per gallon and the tax rate for ethanol blended gasoline E-15 or higher is presumed to be 24¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,000 gallons tax-paid gasoline ($7,000 \times .30$) =	\$2,100.00
Blender adds 3,000 gallons untaxed ethanol	\$.00
Total tax paid on products	<u>\$2,100.00</u>
Total tax due on 10,000 gallons ethanol blended gasoline E-15 or higher ($10,000 \times .24$) =	\$2,400.00
Additional Amount Due	<u>\$300.00</u>

b. E-15 or higher refund example where ethanol and gasoline are purchased by a blender from a supplier. A blender who purchases ethanol and gasoline from a supplier must pay tax on both the ethanol purchased and the gasoline purchased. The blender must obtain a refund permit to receive a refund of the overpayment of tax on the blended product. Example: For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per gallon and the tax rate for ethanol blended gasoline E-15 or higher is presumed to be 24¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,000 gallons tax-paid gasoline ($7,000 \times .30$) =	\$2,100.00
Blender purchases 3,000 gallons tax-paid ethanol ($3,000 \times .24$) =	\$720.00
Total tax paid on products	<u>\$2,820.00</u>
Total tax due on 10,000 gallons ethanol blended gasoline E-15 or higher ($10,000 \times .24$) =	\$2,400.00
Amount of Refund Allowable	<u>\$420.00</u>

c. E-10 to E-14 example where ethanol and gasoline are purchased by a blender from any source. A blender who purchases ethanol and gasoline from any source must pay tax on both the ethanol purchased and the gasoline purchased. The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due. Example: For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per gallon, the tax rate for ethanol is presumed to be 24¢ per gallon, and the tax rate for ethanol blended gasoline E-10 is presumed to be 30¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,200 gallons tax-paid gasoline ($7,200 \times .30$) =	\$2,160.00
Blender purchases 800 gallons tax-paid ethanol ($800 \times .24$) =	\$192.00
Total tax paid on products	<u>\$2,352.00</u>
Total tax due on 8,000 gallons ethanol blended gasoline E-10 ($8,000 \times .30$) =	\$2,400.00
Additional Amount Due	<u>\$48.00</u>

d. E-15 or higher refund example where ethanol blended gasoline E-10 to E-14 and ethanol blended gasoline E-15 or higher are purchased by a blender from a supplier. A blender who purchases ethanol blended gasoline E-10 to E-14 and ethanol blended gasoline E-15 or higher from a supplier must pay tax on both the ethanol blended gasoline E-10 to E-14 purchased and the ethanol blended gasoline E-15 purchased. The blender must obtain a refund permit to receive a refund of the overpayment of tax on the blended product. Example: For purposes of the following example, the tax rate for E-10 to E-14 purchased is presumed to be 30¢ per gallon and the tax rate for ethanol blended gasoline E-15 or higher

is presumed to be 24¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,000 gallons tax-paid ethanol blended gasoline E-10 to E-14 ($7,000 \times .30$) =	\$2,100.00
Blender purchases 3,000 gallons tax-paid ethanol blended gasoline E-15 or higher ($3,000 \times .24$) =	\$720.00
Total tax paid on products	<u>\$2,820.00</u>
Total tax due on 10,000 gallons ethanol blended gasoline E-15 or higher ($10,000 \times .24$) =	\$2,400.00
Amount of Refund Allowable	<u>\$420.00</u>

e. Ethanol blended gasoline E-15 or higher blending errors. Where a blending error occurs and an insufficient amount of ethanol has been blended with gasoline so that the mixture fails to qualify as ethanol blended gasoline E-15 or higher, a 1 percent tolerance applies in determining the tax on the blended product as described below:

(1) If the amount of the ethanol erroneously blended with gasoline is at least 14 percent of the total blended product by volume, the ethanol and gasoline blended product is considered ethanol blended gasoline E-15 or higher and there is no penalty or assessment of additional tax.

(2) If the amount of ethanol erroneously blended with gasoline is less than 14 percent of the total blended product by volume, the total blend of gasoline and ethanol is subject to tax as motor fuel other than ethanol blended gasoline E-15 or higher at the prevailing rate of tax.

1. Blending errors occur only if a blender intends to produce ethanol blended gasoline E-15 or higher. If a blender does not intend to produce ethanol blended gasoline when blending ethanol and gasoline, and the mixture contains less than 14 percent ethanol by volume, no error has occurred and the mixture is subject to tax as motor fuel other than ethanol blended gasoline E-15 or higher.

2. The following formulas are used to compute blending errors:

Actual gasoline + actual ethanol = total gallons of blended product

Total gallons of blended product $\times .14$ = required ethanol

3. Examples. The following factors are assumed for all examples:

The blender in each example intends to blend ethanol blended gasoline E-15 or higher. Figures are rounded to the nearest whole gallon; ethanol blended gasoline E-15 or higher is taxed at 24¢ per gallon; gasoline is taxed at 30¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov. Penalty and interest charges are not computed in the examples.

EXAMPLE 1:

Actual gasoline	=	8,500 gal.
Actual ethanol	=	1,500 gal.
Total blended product	=	10,000 gal.
$10,000 \times .14$	=	1,400 gal. required ethanol

The actual ethanol (1,500 gallons) is more than the required ethanol (1,400 gallons), which means that the tax is applied according to subparagraph 260.4(2) "e"(1) as follows:

10,000 gal. of blended product $\times .24$ = \$2,400 tax on ethanol blended gasoline E-15 or higher

EXAMPLE 2:

Actual gasoline	=	9,200 gal.
Actual ethanol	=	800 gal.
Total blended product	=	10,000 gal.
$10,000 \times .14$	=	1,400 gal. required ethanol

The actual ethanol (800 gallons) is less than the required ethanol (1,400 gallons), which means that the entire blend is considered motor fuel other than ethanol blended gasoline E-15 or higher and the tax is applied according to subparagraph 260.4(2) “e”(2) as follows:

$$10,000 \text{ gal. of blended product} \times .30 = \$3,000 \text{ tax on motor fuel other than ethanol blended gasoline E-85 or higher}$$

260.3(3) Blenders of biodiesel blended fuel.

a. Biodiesel B-20 or higher additional tax due.

(1) A blender who owns the biodiesel being used to blend with diesel must purchase the diesel from a supplier and pay the appropriate tax to the supplier.

(2) The blender must obtain a blender’s license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due.

(3) Examples. For purposes of the following examples, the tax rate for B-20 or higher is presumed to be 29.5¢ per gallon and the tax rate for special fuel other than B-20 or higher is presumed to be 32.5¢ per gallon. The actual tax rates for the appropriate period may be found on the department’s website at revenue.iowa.gov.

EXAMPLE 1:

Blender purchases 8,000 gallons tax-paid petrodiesel ($8,000 \times .325$) =	\$2,600.00
Blender adds 2,000 gallons untaxed biodiesel =	\$.00
Total tax paid on products =	<u>\$2,600.00</u>

The blended product is 10,000 gallons of special fuel, which includes 2,000 gallons (20 percent by volume) of biodiesel. Thus, the product is taxed as B-20 or higher.

Total tax due on 10,000 gallons blended B-20 or higher ($10,000 \times .295$) =	\$2,950.00
Additional Amount Due =	<u>\$350.00</u>

EXAMPLE 2:

Blender purchases 7,600 gallons tax-paid petrodiesel ($7,600 \times .325$) =	\$2,470.00
Blender adds 400 gallons untaxed biodiesel =	\$.00
Total tax paid on products =	<u>\$2,470.00</u>

The blended product is 8,000 gallons of special fuel, which includes 400 gallons (5 percent by volume) of biodiesel. Thus, the product is taxed as special fuel undyed classified as other than B-20 or higher.

Total tax due on 8,000 gallons special fuel undyed classified as other than B-20 or higher ($8,000 \times .325$) =	\$2,600.00
Additional Amount Due =	<u>\$130.00</u>

EXAMPLE 3:

Blender purchases 7,750 gallons tax-paid B-2 ($7,750 \times .325$) =	\$2,518.75
Blender adds 250 gallons untaxed biodiesel =	\$.00
Total tax paid on products =	<u>\$2,518.75</u>

7,750 gallons of B-2 contains 155 gallons (2 percent) of biodiesel. The blended product is 8,000 gallons of special fuel, which includes 405 gallons ($155 + 250$, or 5 percent by volume) of biodiesel. Thus, the product is taxed as special fuel undyed classified as other than B-20 or higher.

Total tax due on 8,000 gallons special fuel undyed classified as other than B-20 ($8,000 \times .325$) =	\$2,600.00
Additional Amount Due =	<u>\$81.25</u>

b. Diesel purchased by blender.

(1) A blender who purchases diesel products from a supplier must pay the appropriate tax on all diesel products purchased.

(2) The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for any additional amount due.

(3) The blender must also obtain a refund permit to receive a refund of any overpayment of tax on the blended product.

(4) Examples. For purposes of the following examples, the tax rate for B-20 or higher is presumed to be 29.5¢ per gallon and the tax rate for special fuel other than B-20 or higher is presumed to be 32.5¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE 1:

Blender purchases 8,000 gallons tax-paid petrodiesel ($8,000 \times .325$) =	\$2,600.00
Blender purchases 2,000 gallons tax-paid biodiesel ($2,000 \times .295$) =	\$590.00
Total tax paid on products =	<u>\$3,190.00</u>

The blended product is 10,000 gallons of biodiesel blended fuel classified as B-20 or higher, which includes 2,000 gallons (20 percent by volume) of biodiesel. Thus, the product is taxed as biodiesel blended fuel classified as B-20 or higher.

Total tax due on 10,000 gallons of blended fuel classified as B-20 or higher ($10,000 \times .295$) =	\$2,950.00
Amount of Refund Allowable =	<u>\$240.00</u>

EXAMPLE 2:

Blender purchases 7,600 gallons tax-paid petrodiesel ($7,600 \times .325$) =	\$2,470.00
Blender purchases 400 gallons tax-paid biodiesel ($400 \times .295$) =	\$118.00
Total tax paid on products =	<u>\$2,588.00</u>

The blended product is 8,000 gallons of biodiesel blended fuel classified as other than B-20 or higher, which includes 400 gallons (5 percent by volume) of biodiesel. Thus, the product is taxed as special fuel other than B-20 or higher.

Total tax due on 8,000 gallons blended B-5 ($8,000 \times .325$) =	\$2,600.00
Additional Amount Due =	<u>\$12.00</u>

EXAMPLE 3:

Blender purchases 4,000 gallons tax-paid B-2 ($4,000 \times .325$) =	\$1,300.00
Blender purchases 4,000 gallons tax-paid B-20 ($4,000 \times .295$) =	\$1,180.00
Total tax paid on products =	<u>\$2,480.00</u>

4,000 gallons of B-2 contains 80 gallons (2 percent) of biodiesel, and 4,000 gallons of B-20 contains 800 gallons (20 percent) of biodiesel. The blended product is 8,000 gallons of special fuel, which includes 880 gallons ($80 + 800$, or 11 percent by volume) of biodiesel. Thus, the product is taxed as special fuel other than B-20 or higher.

Total tax due on 8,000 gallons B-11 or higher ($8,000 \times .301$) =	\$2,600.00
Amount of Refund Allowable =	<u>\$120.00</u>

260.3(4) Blending errors.

a. *Blending tolerance.* Where a blending error occurs and an insufficient amount of biodiesel has been blended with petrodiesel so that the mixture fails to qualify as B-20 or higher as defined in rule 701—259.1(452A), a 1 percent tolerance applies in determining the tax on the blended product as described below:

(1) If the amount of the biodiesel erroneously blended with petrodiesel is at least 19 percent of the total blended product by volume, the biodiesel and petrodiesel blended product is considered B-20 or higher and there is no penalty or assessment of additional tax.

(2) If the amount of biodiesel blended with petrodiesel is less than 19 percent of the total blended product by volume, the entire mixture is considered taxable diesel other than B-20 or higher and subject to tax at the prevailing rate.

b. Intention to blend. Blending errors occur only if a blender intends to produce B-20 or higher. If a blender does not intend to produce B-20 or higher when blending biodiesel and petrodiesel, and the mixture contains less than 19 percent biodiesel by volume, no error has occurred and the mixture is subject to tax as diesel other than B-20 or higher.

c. Computation of blending errors. The following formulas are used to compute blending errors:

Actual biodiesel + actual petrodiesel = total gallons of blended product

Total gallons of blended product $\times$.19 = required biodiesel

d. Examples. The following factors are assumed for all examples:

The blender in each example intends to blend B-20 or higher. Figures are rounded to the nearest whole gallon; B-20 or higher is taxed at .295¢ per gallon; diesel other than B-20 or higher is taxed at .325¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov. Penalty and interest charges are not computed in the examples.

EXAMPLE 1:

Actual petrodiesel	=	6,400 gal.
Actual biodiesel	=	1,600 gal.
Total blended product	=	8,000 gal.
8,000 $\times$.19	=	1,520 gal. required biodiesel

The actual biodiesel (1,600 gallons) is more than the required biodiesel (1,520 gallons). Thus, the tax is applied according to subparagraph 260.4(3) "c"(1) as follows:

8,000 gal. of blended product $\times$.295 = \$2,360 tax on B-20 or higher

EXAMPLE 2:

Actual petrodiesel	=	6,600 gal.
Actual biodiesel	=	1,400 gal.
Total blended product	=	8,000 gal.
8,000 $\times$.19	=	1,520 gal. required biodiesel

The actual biodiesel (1,400 gallons) is less than the required biodiesel (1,520 gallons). Thus, the tax is applied according to subparagraph 260.4(3) "c"(2) as follows:

8,000 gal. of blended product $\times$.325 = \$2,600 tax on diesel other than B-20 or higher

EXAMPLE 3:

A blender erroneously mixes 3,000 gallons of B-2 with 5,000 gallons of B-30 with the intent of creating B-20 or higher. 3,000 gallons of B-2 contains 60 gallons (2 percent) of biodiesel. 5,000 gallons of B-30 contains 1,500 gallons (30 percent) of biodiesel. Thus, the 8,000 gallons (3,000 + 5,000) of blended product includes 1,560 gallons (60 + 1,500) of biodiesel and 6,440 gallons (8,000 – 1,560) of petrodiesel.

Actual petrodiesel	=	6,440 gal.
Actual biodiesel	=	1,560 gal.
Total blended product	=	8,000 gal.
8,000 $\times$.19	=	1,520 gal. required biodiesel

The actual biodiesel (1,560 gallons) is greater than the required biodiesel (1,520 gallons), which means that the entire blend is considered B-20 or higher and the tax is applied according to subparagraph 260.4(3) “c”(1) as follows:

$$8,000 \text{ gal. of blended product} \times .295 = \$2,360 \text{ tax on B-20 or higher}$$

This rule is intended to implement Iowa Code section 452A.8.

701—260.4(452A) Tax returns—computations.

260.4(1) Supplier—nexus.

a. Determination of tax liability amount. The fuel tax liability for a supplier is computed by multiplying the per gallon fuel tax rate by the total number of invoiced gallons of motor fuel or undyed special fuel withdrawn from the terminal by the supplier within the state or by the supplier with an Iowa nexus from a terminal outside the state during the preceding calendar month, less deductions for fuel exported in the case of in-state withdrawals and the distribution allowance provided for in Iowa Code section 452A.5.

b. Supplier responsibility. Tax shall not be paid when the sale of ethanol occurs within a terminal from an ethanol manufacturer to a licensed supplier. The tax shall be paid by the licensed supplier when the invoiced gross gallonage of the ethanol or the ethanol part of the ethanol blended gasoline is withdrawn from a terminal for delivery in this state. This makes the licensed supplier responsible for the tax on both the ethanol and the gasoline portions of the ethanol blended gasoline and for the reporting and accounting of this fuel as ethanol blended gasoline on the supplier report.

c. Terminals outside of Iowa. If fuel is withdrawn by a supplier with no nexus in Iowa, but who voluntarily agrees to collect and report the tax, from a terminal outside of Iowa for importation into Iowa, the tax liability is computed in the same manner as in paragraph 260.4(1) “a” with the exception that no deduction is allowable for exports.

260.4(2) Restrictive supplier. The fuel tax liability for a restrictive supplier is to be computed by multiplying the per gallon fuel tax rate by the total number of invoiced gallons of motor fuel or undyed special fuel imported into Iowa during the preceding calendar month.

260.4(3) Importer. The fuel tax liability for an importer is computed by multiplying the per gallon fuel tax rate by the total number of invoiced gallons of motor fuel or undyed special fuel imported into Iowa during the applicable reporting period.

260.4(4) Nonlicensee. The tax liability for a nonlicensee is computed the same as for a restrictive supplier. If motor fuel or undyed special fuel is exported from this state with no tax paid and subsequently returned to this state because all or a portion of it was not delivered where destined, the tax must be paid to the department by the nonlicensee.

All gallon entries on the return for determining the tax liability must be rounded to the nearest whole gallon.

This rule is intended to implement Iowa Code sections 452A.3, 452A.5, 452A.8, and 452A.9.

701—260.5(452A) Distribution allowance. The tax computation for a supplier includes a distribution allowance of 1.6 percent of the motor fuel gallonage and 0.7 percent of the undyed special fuel gallonage removed from the terminal during the reporting period. The distributor purchasing the fuel from the supplier is entitled to 1.2 percent of the motor fuel distribution allowance. The distributor or dealer purchasing fuel from a supplier is entitled to 0.35 percent of the undyed special fuel distribution allowance. The distribution allowance does not apply to fuel exported.

This rule is intended to implement Iowa Code sections 452A.5 and 452A.8.

701—260.6(452A) Supplier credit—uncollectible account.

260.6(1) Generally. A licensed supplier who is unable to recover the tax from an eligible purchaser or end user is not liable for the tax and may credit the amount of unpaid tax against a later remittance of tax.

260.6(2) Qualification for credit.

a. To qualify for the credit, the supplier must notify the department in writing of the uncollectible account no later than ten calendar days after the due date for payment of the tax.

b. Notification is to be provided to the department via email at idrmotorfuel@iowa.gov. The notification must include all information required by the department.

c. Disqualification for credit.

(1) A supplier does not qualify for the credit if the purchaser did not elect to apply for the eligible purchaser or end user status or did not qualify to be an eligible purchaser.

(2) The credit does not apply if the supplier sells additional fuel to a delinquent eligible purchaser or end user after notifying the department that the supplier has an uncollectible debt with an eligible purchaser.

260.6(3) *Cancellation of eligible status.* Upon notification from the supplier that an eligible purchaser is in default of the tax payment, that person's eligible purchaser or end user status will be canceled by the department. The eligible purchaser or end user status will not be reinstated until such time as the purchaser posts securities to guarantee future tax payments as provided in 701—paragraph 259.17(1) "d."

260.6(4) *Eligible purchasers.*

a. Registration. Any distributor of motor fuel or special fuel or end user of special fuel who requests authorization to make delayed payments of the motor vehicle fuel tax must first register with the department to become an eligible purchaser.

b. Payment of tax. The eligible purchaser must pay the tax to the supplier by electronic funds transfer one business day prior to the date the tax is to be paid by the supplier.

c. Validity. Once approved, the eligible purchaser status is valid until voluntarily canceled by the eligible purchaser or canceled by the department of revenue. More information is contained in 701—subrule 259.18(4).

This rule is intended to implement Iowa Code section 452A.8.

701—260.7(452A) Refunds. Refunds are allowable for the tax paid on motor fuel and undyed special fuel as identified in Iowa Code section 452A.17. Iowa Code section 452A.17(1) "a" contains the complete list of allowable refunds.

260.7(1) *Federal government.* For fuel sold to the United States or to any agency or instrumentality of the United States, the tax is subject to refund regardless of how the fuel is used. The name of the federal agency or instrumentality must appear on the invoice as the purchaser of the fuel for the purchase to be eligible for a refund.

a. The department will consider the factors found in 701—subrule 212.12(3) to determine whether an organization is an instrumentality of the United States government.

b. The American Red Cross, Project Head Start, Federal Land Banks and Federal Land Bank Associations, among others, have been determined to be instrumentalities of the federal government.

c. Ineligible for refunds. Receivers or trustees appointed in the federal bankruptcy proceedings are subject to the excise tax and ineligible for refund. The refund is not available to employees of the federal government who purchase fuel individually and are later reimbursed by the federal government.

260.7(2) *The state and political subdivisions.*

a. Generally. Fuel sold to the state of Iowa, agencies of the state, or any political subdivision of the state and that is used for public purposes may be eligible for a refund. This refund is not available to agencies or instrumentalities of political subdivisions.

b. Political subdivision attributes. The general attributes and factors in determining if an entity is a political subdivision of the state of Iowa are whether the entity has:

- (1) A specific geographic area;
- (2) Public officials elected at public elections;
- (3) Taxing power;
- (4) A general public purpose or benefit; and

(5) The attributes, factors or powers listed in subparagraphs 260.7(2) "a"(1) to "a"(4) delegated to it by the state of Iowa.

c. *Employees.* The refund is not available to employees of a governmental unit who purchase fuel individually and are later reimbursed by the governmental unit. The name of the governmental unit must appear on the invoice as the purchaser of the fuel or the refund will not be allowed.

260.7(3) *Contract carriers.*

a. Fuel sold to a contract carrier who has a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school is refundable.

b. If the contract carrier also uses fuel for purposes other than the transportation of pupils, the refund will be based on that percentage of the total amount of fuel purchased which reflects the pupil transportation usage.

c. A refund requested by a contract carrier will be reduced by the applicable sales tax unless otherwise exempt. The name of the contract carrier must appear on the invoice as the purchaser of the fuel or the refund will not be allowed.

260.7(4) *Unlicensed vehicles, stationary engines, machinery and equipment used for nonhighway purposes, implements used in agricultural production, and home heating.* Fuel used in unlicensed vehicles, stationary engines, machinery and equipment used for nonhighway purposes, implements used in agricultural production, and fuel used for home heating.

260.7(5) *Idle time.*

a. *Claims.* Persons who wish to claim a refund for idle time (the engine is running but not propelling the vehicle) must first apply to the department and provide statistical information on how the refund amount will be calculated.

b. *Qualification.*

(1) Normally, to qualify for a refund the vehicle must be equipped with an on-board monitoring device that records the actual time the engine is idling and the amount of fuel consumed while idling.

(2) If the device only records the idle time and not fuel used, the refund amount will be calculated at one-half gallon of fuel consumed per one hour of idle time.

(3) The computation must also consider the miles driven in Iowa versus total miles driven. The department will require a review of interstate carrier reports before approval of the computation method.

260.7(6) *Power takeoff.*

a. *Generally.* Persons operating vehicles that have auxiliary equipment powered by the power takeoff may apply for a refund for that portion of the fuel used for powering the auxiliary equipment.

b. *Exempt percentage.* The person requesting the refund must furnish the department with statistical information on how the exempt percentage is established. The percentage can be established by using the following methods:

(1) Determine the actual fuel usage by the hour while the auxiliary equipment is in use compared to total hours the engine is running.

(2) Establish total miles per gallon for the vehicle when auxiliary equipment is not in use compared to miles per gallon while the equipment is in use.

(3) Other computation methods to be reviewed by the department prior to approval.

260.7(7) *Fuel used in relation to cement and solid waste.* It has been predetermined that tax on fuel used in the mixing of cement into concrete, the off-loading of the concrete, and the loading and off-loading of solid waste will be refunded on the basis of 30 percent of the fuel placed in the fuel supply tank of the vehicle provided proper records are maintained. Proper records shall consist of records of fills for each vehicle from tax-paid bulk storage tanks or sales tickets where fuel is purchased directly from a service station. Each vehicle must be identifiable by a unit number so the department can trace fuel usage to specific vehicles. An additional allowance will be granted where it can be substantiated through the use of separate meters that operate to measure the fuel when the vehicle is stationary or the use of separate tanks that fuel the vehicle only when the vehicle is stationary that the actual nonhighway fuel usage exceeds 30 percent.

260.7(8) *Refrigeration units (reefers).*

a. *Generally.* Tax paid on fuel for reefer units is subject to refund.

b. *Documentation.* The person must maintain records of fuel purchases to substantiate the tax-paid purchases. Invoices must meet the criteria set forth in rule 701—259.11(452A). In addition, the invoices

must separately state fuel purchased and placed in the reefer unit or the person must provide records establishing the amount of fuel used in a reefer unit.

260.7(9) Pumping credits.

a. Generally. A refund will be allowed for taxes paid on fuel once that fuel has been placed in the fuel supply tank of a motor vehicle when the motor of that vehicle is used as a power source for off-loading procedures.

b. Documentation. Meter readings from the pump used in the off-loading procedure or the invoice, manifest, or bill of lading number covering the product off-loaded must be retained.

c. Claim amounts. Unless a different amount can be proven, the claims for refund will be:

(1) One-half gallon credit for each 1,000 gallons of liquid products pumped and three-tenths of a gallon credit for each ton of dry products off-loaded when using motor fuel or undyed diesel fuel to power the motor; and

(2) One gallon credit for each 1,000 gallons of liquid products pumped and three-tenths of a gallon credit for each ton of dry products off-loaded when using L.P.G. to power the motor.

260.7(10) Transport diversions.

a. Generally. When a transport load of fuel is sold tax-paid with a destination in this state and later diverted to a destination outside the state, the person who actually paid the Iowa tax is entitled to a refund.

b. Refund claims. To secure a refund, the person must file a completed claim form provided by the department with supporting documentation including a copy of the bill of lading, invoices, or document showing where and to whom the fuel was delivered, a copy of the reporting form, and evidence of payment to the state where the fuel was actually delivered.

260.7(11) Casualty loss.

a. Notification. In the event fuel is lost or destroyed through fire, explosion, lightning, flood, storm, earthquake, terrorist attack, or other casualty, the taxpayer has ten days from the discovery of the loss to inform the department in writing of such loss. The notification must contain the amount of gallonage lost or destroyed, which must be in excess of 100 gallons.

b. Refund. An application for refund must be submitted to the department within 60 days of the notification. This application must contain a notarized affidavit sworn to by the person having immediate custody of the fuel at the time of the loss or destruction setting forth, in full detail, the circumstances of the loss or destruction and the number of gallons.

c. Presumption when fuel is in storage. If the fuel was in storage where several fuel purchases were commingled, it is a rebuttable presumption that the fuel lost through casualty was a part of the last delivery into the storage just prior to the loss.

d. Exclusion from refund. No refund is allowed for fuel lost through evaporation, theft, normal leakage, or unknown causes. However, leakage resulting from a major accident or catastrophe is subject to refund.

260.7(12) Exports by eligible purchasers (distributors). Distributors who have purchased tax-paid fuel and sell the fuel to consumers outside the state may apply for a refund of the Iowa tax paid. The distributor must retain records as provided in rule 701—259.2(452A) to support the request for refund.

260.7(13) Blending errors for special fuel.

a. Dyed special fuel commingled with undyed special fuel.

(1) If dyed special fuel is inadvertently mixed with tax-paid undyed special fuel to the extent that the undyed fuel must have additional dye added to meet federal dying requirements to qualify as exempt dyed fuel, the tax is refundable on the undyed special fuel. The refund request must contain the number of gallons of undyed fuel lost through the mixing error and documentation as to how the gallonage was determined.

(2) The request for refund must contain documentation that the commingled product was destroyed or sold for purposes of refinement at a terminal.

b. Motor fuel commingled with special fuel.

c. If motor fuel is blended in error with dyed special fuel to produce a commingled product that must be destroyed or refined for subsequent use, the tax-paid fuel is subject to refund.

d. The request for refund must contain documentation that the commingled product was destroyed or sold for purposes of refinement at a terminal.

260.7(14) Native Americans.

a. *Generally.* Sales by Native Americans to others of their own tribe located on federally recognized Native American reservations or settlements of which they are tribal members are exempt from the tax.

b. *Purchases of fuel by seller.* Fuel must be purchased by the Native American seller with the tax included in the purchase price unless the seller's status under a particular license authorizes the seller to purchase tax-free fuel.

c. *Purchase of fuel by purchasers.* Exempt sales from a Native American seller who purchased fuel with the tax attached to a Native American purchaser are eligible for refund of tax paid. Either the purchasers can file a claim for refund of the tax paid or the purchaser's tribe can file a claim for refund of the tax paid by the tribe on the fuel sold to the purchaser.

d. *Recordkeeping.* Native American sellers are subject to the recordkeeping requirements of Iowa Code chapter 452A.

This rule is intended to implement Iowa Code section 452A.17.

701—260.8(452A) Claim for refund—payment of claim.

260.8(1) Generally. Only claimants holding a refund permit may receive refunds.

260.8(2) Proof of claim.

a. *Exempt purpose.* Requests for refunds for fuel used for an exempt purpose should include the following information:

- (1) Refund permit number,
- (2) Type of fuel,
- (3) Total number of gallons/tons of fuel used to calculate the refund amount,
- (4) The beginning and ending dates of the tax period,
- (5) Net cost of fuel,
- (6) Iowa sales tax due (net cost of fuel times sales tax rate),
- (7) Other items depending on the type of permit and claim type,
- (8) The total amount of refund claimed, and
- (9) Additional information as required.

b. *Other refunds types.* Persons requesting a refund for casualty loss, transport diversions, blending errors of motor fuel and ethanol, and blending errors of special fuel must file in writing on the forms provided by the department and must attach supporting documents explaining why a refund is due.

260.8(3) Designation of agent.

a. *Generally.* Refunds are made and the amount of the refund is paid to the person who actually paid the tax.

b. *Designation.* Persons requesting a refund for idle time, power takeoff, reefer units, pumping credits, or transport diversions may designate another person as an agent to file the claim and receive the refund.

(1) *Documentation.* The person acting as an agent for others must provide the department with the following information including, but not limited to, the name, address, and federal identification number or social security number of the person on whose behalf they are requesting the refund.

(2) *Duration.* Once a person is designated as an agent, this designation remains in force until the department is notified in writing that the agency agreement is no longer enforceable. A governmental agency may designate another governmental agency as an agent for filing and receiving any tax refund authorized in Iowa Code section 452A.17.

260.8(4) Deposit of refund. If the person so designates, the department will direct deposit the refund in the person's designated bank account. In lieu of direct deposit, the permit holder will receive a state warrant.

This rule is intended to implement Iowa Code sections 452A.17, 452A.19, 452A.21, and 452A.72.

701—260.9(452A) Refund permit.

260.9(1) *Generally.* To obtain the refund provided for in Iowa Code chapter 452A and rule 701—260.7(452A), the claimant must have an active refund permit.

260.9(2) *Application.* The application for a refund permit is provided by the department and will contain, but not be limited to, the following information:

- a. The name and location of the business and the mailing address if different,
- b. The type of ownership,
- c. The social security number or federal identification number of the applicant, and
- d. The type of refund requested.

260.9(3) *Cost and effective dates.* The refund permit remains in effect until revoked or canceled or until the permit becomes invalid.

260.9(4) *Recordkeeping.* All refund permit holders are required to keep invoices and copies of returns if filed, supporting schedules, and studies for documentation to support the refund.

This rule is intended to implement Iowa Code section 452A.18.

701—260.10(452A) Revocation of refund permit.

260.10(1) *Revocation.* Iowa Code section 452A.19(1) provides the circumstances under which a refund permit may be revoked.

260.10(2) *Waiting period for reissuance.* If a permit is revoked for reasons provided in Iowa Code section 452A.19(1), the permit will not be reissued for a period of at least one year after the revocation.

260.10(3) *Nonuse.* Permits that have not been used to claim a refund for at least three years will be invalidated but are subject to reinstatement or issuance of a new permit without a waiting period upon proper application.

260.10(4) *Procedure.* Rule 701—7.39(17A) provides more information about the revocation or invalidation of permits.

This rule is intended to implement Iowa Code section 452A.19.

701—260.11(452A) Income tax credit in lieu of refund.

260.11(1) *Tax credit in lieu of refund permit.* A person or corporation may claim the refund allowable under Iowa Code section 452A.17(2) as an income tax credit rather than apply for a refund permit.

260.11(2) *Cancellation of refund permit.* If a person or corporation holds a refund permit and elects to receive an income tax credit, the person or corporation must cancel the refund permit within 30 days after the first day of its year or the permit becomes invalid and application must be made for a new permit.

260.11(3) *Effective dates.* Once the election to receive an income tax credit has been made, it remains in effect until the election is changed.

260.11(4) *Exclusions from credit.* The income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, exports by distributors, and excess tax paid on ethanol blended gasoline.

This rule is intended to implement Iowa Code sections 422.110, 452A.17(2), and 452A.21.

701—260.12(452A) Reduction of refund—sales and use tax.

260.12(1) *Generally.* Refunds of the fuel tax paid on sales of fuel will be reduced by any applicable sales or use tax. Iowa Code section 423.3(56) and rule 701—218.11(423) provide more information on the exemption from sales or use tax when the fuel tax has been imposed and paid.

260.12(2) *Exclusion from reduction of refund.* Refunds of the fuel tax paid on sales of fuel used for other exempt purposes under Iowa Code chapter 423 and fuel lost through casualty will not be reduced by the applicable sales or use tax.

260.12(3) *Applicable sale price.* The sales price upon which the sales and use tax will be applied shall include all federal excise taxes but will not include the Iowa fuel tax.

This rule is intended to implement Iowa Code sections 423.3(356) and 452A.17.

701—260.13(452A) Terminal withdrawals—meters. Any refinery or terminal within this state must be fixed with meters that totalize the gross gallons withdrawn. All bills of lading or manifests must show the gross gallons withdrawn. A temperature-adjusted or other method shall not be used except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All fuel withdrawn from a refinery or terminal within this state must pass through these meters.

This rule is intended to implement Iowa Code sections 452A.2, 452A.8, 452A.15(2), and 452A.59.

701—260.14(452A) Terminal and nonterminal storage facility reports and records.

260.14(1) Generally. Each terminal and nonterminal storage facility operating in Iowa must file a monthly inventory report with the department.

260.14(2) Report information. The report shall include, but not be limited to, the following information:

- a. Name and license number of the company that owns and operates the terminal or nonterminal storage facility.
- b. Location of the terminal or nonterminal storage facility.
- c. Month and year covered by the report.
- d. Terminal code assigned by the Internal Revenue Service or the storage facility license number assigned by the department.
- e. Beginning inventory.
- f. Total receipts for the month with each receipt providing the following information:
 - (1) Gross gallons received by schedule code and fuel type and, if diesel fuel, whether dyed or undyed fuel,
 - (2) Bill of lading number,
 - (3) Date of receipt,
 - (4) Seller,
 - (5) Carrier,
 - (6) Mode of transportation, and
 - (7) Destination state.
- g. Total withdrawals for the month, with each withdrawal providing the following information:
 - (1) Gross gallons withdrawn by schedule code and by fuel type and, if diesel fuel, whether dyed or undyed fuel,
 - (2) Bill of lading number,
 - (3) Date of withdrawal,
 - (4) Consignor,
 - (5) Consignee,
 - (6) Mode of transportation,
 - (7) Destination state,
 - (8) Origin state, and
 - (9) Carrier.
- h. The actual ending inventory and any gains or losses.
- i. The signature or electronic signature of the person responsible for preparing the report.
- j. Any additional information as the department may require.

260.14(3) Civil penalty.

a. *Failure to file.* The director may impose a civil penalty against any person who fails to file the reports required under Iowa Code section 452A.15(2) or 452A.15(3).

b. *Amount.* The penalty is \$100 for the first violation and increases by \$100 for each additional violation occurring in the calendar year in which the first violation occurred.

This rule is intended to implement Iowa Code section 452A.15(2).

701—260.15(452A) Transportation reports.

260.15(1) Generally. The reports required under Iowa Code section 452A.15(1) are to be filed by railroad carriers, common carriers, contract carriers, distributors transporting fuel for others, and anyone

else transporting fuel from without the state and unloading it at other than terminal storage within the state.

260.15(2) Report information.

- a. Reports are to be filed monthly.
- b. Reports must include all fuel that was imported into Iowa and unloaded at other than terminal storage, all fuel withdrawn from Iowa terminal storage and delivered in Iowa, and all fuel withdrawn from Iowa terminal storage and exported from Iowa.
- c. For each report, the following information for each delivery is to be included:
 - (1) The name, address, and federal identification number or social security number of the person to whom actually delivered.
 - (2) The name, address, and federal identification number or social security number of the originally named consignee, if delivered to anyone other than the originally named consignee.
 - (3) The point of origin, the point of delivery, and the date of delivery.
 - (4) The number and initials of each tank car and the number of gallons contained therein, if shipped by rail.
 - (5) The name of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water.
 - (6) The registration number of each tank truck and the number of gallons contained therein, if transported by motor truck.
 - (7) The manner, if delivered by other means, in which the delivery is made.
 - (8) Such additional information relative to shipments of motor fuel or special fuel as the department may require.

260.15(3) Civil penalties.

- a. *Failure to file.* The director may impose a civil penalty against any person who fails to file the reports required under Iowa Code section 452A.15(1).
- b. *Penalty amount.* The penalty is \$100 for the first violation and increases by \$100 for each additional violation occurring in the calendar year in which the first violation occurred.

This rule is intended to implement Iowa Code section 452A.15.

701—260.16(452A) Bill of lading or manifest requirements. Whenever a bill of lading or manifest is required to be issued, carried, retained, or submitted by these rules, it shall contain the following information:

1. Name and address of the refinery, terminal, ethanol plant, biodiesel plant or point of origin.
2. Date of withdrawal or import.
3. Name of the shipper-supplier-consignor.
4. Name of the purchaser-consignee.
5. Place of actual destination.
6. Name of the transporter.
7. Gross gallons by fuel type.
8. Designation for ethanol blended gasoline or biodiesel blended fuel as provided in Iowa Code section 214A.2.
9. Statement designating whether diesel fuel is dyed or undyed.
10. Machine printed serial number of not less than four digits.

This rule is intended to implement Iowa Code sections 452A.10, 452A.12, 452A.60, and 452A.76.

ITEM 3. Rescind 701—Chapter 261 and adopt the following **new** chapter in lieu thereof:

CHAPTER 261
LIQUEFIED PETROLEUM GAS—COMPRESSED
NATURAL GAS—LIQUEFIED NATURAL GAS—HYDROGEN

701—261.1(452A) Definitions and applicability.

261.1(1) For the purpose of this chapter, terms have the same meaning as provided in Iowa Code sections 452A.2 and 452A.57 and rule 701—259.1(452A). Additionally, the following definitions apply:

“C.N.G.” means compressed natural gas.

“*Invoiced gallons*” means gross gallons as shown on the bill of lading or invoice. A temperature-adjusted method may be used as it applies to liquefied petroleum gas.

“*Licensed metered pumps or metered pumps*” means pumps that have been metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture pursuant to Iowa Code section 452A.8(2).

“*Licensed metered storage or metered storage*” means storage facilities containing “licensed metered pumps.”

“L.N.G.” means liquefied natural gas.

“L.P.G.” means liquefied petroleum gas.

“*Owner*” means and includes the owner or the employees, agents, or persons under the control of the owner.

“*Special fuel*” means liquefied petroleum gas, liquefied natural gas, compressed natural gas, or hydrogen.

261.1(2) *Applicability of other rules.* All rules in 701—Chapters 259 and 260 apply if not specifically stated in this chapter.

This rule is intended to implement Iowa Code chapter 452A.

701—261.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax.

261.2(1) *Attachment of tax.*

a. L.P.G. The excise tax on L.P.G. attaches when the special fuel is placed in a fuel supply tank of a motor vehicle.

b. C.N.G., L.N.G., and hydrogen. The excise tax on C.N.G. and L.N.G. attaches at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

261.2(2) *Responsibility for collection and remittance.* The person responsible for the tax must collect the tax from the purchaser and remit the tax to the department. Iowa Code section 452A.8(2) “e” contains more information on the person responsible for the tax.

261.2(3) *Licensing.* The person responsible for placing L.P.G. into the fuel supply tank of a motor vehicle and the person responsible for placing C.N.G., L.N.G., or hydrogen into compressing equipment must hold a license as a dealer or user as defined in Iowa Code section 452A.4.

261.2(4) *Returns.* The return and tax are due no later than the last day of the month following the month the L.P.G. was placed in a vehicle or C.N.G., L.N.G., or hydrogen was placed into compressing equipment. The tax must be remitted by means of electronic funds transfer, unless the licensee can show that this method of payment would cause undue hardship on the licensee. The return must be remitted by means of electronic transmission.

261.2(5) *Penalty and interest.* Rule 701—259.8(452A) provides information on penalty and interest.

This rule is intended to implement Iowa Code section 452A.8.

701—261.3(452A) Persons authorized to place L.P.G., L.N.G., C.N.G., or hydrogen in the fuel supply tank of a motor vehicle.

261.3(1) *Generally.* The only persons authorized to place L.P.G., L.N.G., C.N.G., or hydrogen into the fuel supply tank of a motor vehicle are: licensed L.P.G., L.N.G., C.N.G., or hydrogen dealers, or licensed L.P.G., L.N.G., C.N.G., or hydrogen users.

261.3(2) *L.P.G., L.N.G., C.N.G., or hydrogen dealer’s license.* Anyone who delivers untaxed L.P.G. into the fuel supply tank of a motor vehicle or places untaxed C.N.G., L.N.G., or hydrogen into compression equipment must be licensed as an L.P.G., L.N.G., C.N.G., or hydrogen dealer. A dealer may also fuel the dealer’s own vehicles under this license.

261.3(3) *L.P.G., L.N.G., C.N.G., or hydrogen user's license.* Anyone who delivers untaxed L.P.G., L.N.G., C.N.G., or hydrogen upon which fuel tax has not been previously paid, into the fuel supply tank of a motor vehicle, which tank is owned or leased by the person delivering it and which vehicle will be for highway use, must be licensed as an L.P.G., L.N.G., or C.N.G. user. If that same person delivers the fuel into tanks owned by others, that person must be licensed as a dealer in lieu of being licensed as a user.

261.3(4) *L.P.G. "mobile" tank authorization.*

a. When a person has an L.P.G. storage tank which is "mobile" and the storage is moved from location to location, that person may be issued an L.P.G. user's license.

(1) This licensee will be allowed to move the storage tank to a new location without procuring a new license for each new location.

(2) The issuance of this license is discretionary with the director, and the license will be issued only when the person requesting the license shows a need for mobile storage.

(3) The license will be issued to the licensee at the licensee's principal place of business, and each mobile storage tank is deemed a separate pump at that location.

b. The operation of such licensed mobile storage shall be subject to the following conditions:

(1) Each mobile storage tank must:

1. Be fixed with licensed, metered pumps.

2. Be assigned a separate number.

3. Have the gallonage reported on a per-tank basis.

4. Display in a size no smaller than six inches in height and $\frac{3}{4}$ inches in width, the unit number and licensee's license number.

(2) There may be a total of only nine mobile storage tanks operated under a single license. If the licensee operates more than nine such storage tanks, the licensee must obtain a separate license for each multiple of nine or fraction thereof.

(3) When a licensee changes the licensee's principal place of business, the licensee is responsible for canceling the license and must apply for a new license for the new principal place of business.

(4) All records required to be kept shall be maintained at the licensee's principal place of business.

(5) Except for the requirement of having a separate license for each location where L.P.G. is used, the licensee is subject to all the requirements of other licensed L.P.G. users.

261.3(5) *Authorization for emergency filling by distributors.*

a. Upon request from a stranded motorist, L.P.G. distributors may place up to 20 gallons of L.P.G. into the fuel supply tank of a stranded vehicle without being considered an unlicensed L.P.G. dealer in violation of Iowa Code section 452A.74(1).

b. For emergency fills, distributors must remit the tax on a licensed dealer form and pay the tax before the last day of the month following the month of the emergency fill.

This rule is intended to implement Iowa Code section 452A.8.

701—261.4(452A) Requirements to be licensed. To become licensed as an L.P.G., L.N.G., C.N.G., or hydrogen user or dealer, a person must file with the department a completed application form for the appropriate license. A separate license is required for each place of business or location where L.P.G., L.N.G., C.N.G., or hydrogen is regularly delivered or placed into the fuel supply tank of motor vehicles. Iowa Code section 452A.4 and 701—subrule 259.18(1) contain licensing requirements.

This rule is intended to implement Iowa Code section 452A.8.

701—261.5(452A) Licensed metered pumps.

261.5(1) *Location pumps.*

a. Criteria. In order for the department to grant a L.P.G., L.N.G., C.N.G., or hydrogen dealer or user license, all pumps designed to fuel motor vehicles at a location must be:

(1) Metered,

(2) Inspected,

(3) Tested for accuracy,

- (4) Sealed, and
- (5) Licensed by the department of agriculture and land stewardship.

b. Multiple pumps. If there is more than one pump at a location to be licensed, each pump will be assigned a separate pump number, and the licensee will report the gallonage each month with reference to such number.

261.5(2) Temperature correction.

a. Each L.P.G. distributor, dealer, or user may elect to measure L.P.G. for the tax purposes either temperature compensated to 60°F, or without temperature compensation.

b. If the L.P.G. distributor, dealer, or user elects to measure L.P.G. temperature compensated to 60°F for tax purposes, the L.P.G. distributor, dealer or user must use meters that are of an automatic temperature compensating type that compute gross gallons corrected to 60°F.

This rule is intended to implement Iowa Code section 452A.8.

701—261.6(452A) Single license for each location.

261.6(1) Place of business or location. A single license is required for each separate place of business or location where L.P.G., L.N.G., C.N.G., or hydrogen is delivered into the fuel supply tank of a motor vehicle.

a. All dealer or user operations at that location will be conducted under that license.

b. A licensee may have a different type of license (dealer, user) for each separate location where L.P.G., L.N.G., C.N.G., or hydrogen is dispensed.

EXAMPLE: If a licensee holds an L.P.G., L.N.G., C.N.G., or hydrogen dealer's license for location A and an L.P.G., L.N.G., C.N.G., or hydrogen user's license for location B, the licensee may sell fuel to others or fuel the licensee's own vehicles at location A, but the licensee may only fuel the licensee's own vehicles at location B.

261.6(2) Reports.

a. For reporting purposes, a licensee may file a separate return for each license.

b. Consolidated returns.

(1) A licensee may file a consolidated return reporting all sales made at all locations for which a license is held if authorized by the department.

(2) A consolidated return may not be used to combine dealer and user operations. All working papers used in the preparation of the information required must be available for examination by the department.

This rule is intended to implement Iowa Code section 452A.4.

701—261.7(452A) Dealer's and user's license nonassignable.

261.7(1) Generally. An L.P.G., L.N.G., C.N.G., or hydrogen dealer's license or user's license cannot be assigned.

261.7(2) Situations considered assignments. The following is a nonexclusive list of situations that will be considered an assignment and therefore require an application for a new license:

a. A change in the name under which the licensee conducts business.

b. A change in the location where the business is conducted.

c. A sale of the business, even if the new owner(s) operates under the same business name.

d. A merger or other business combination that results in a new or different entity.

This rule is intended to implement Iowa Code section 452A.4.

701—261.8(452A) Separate storage—bulk sales—highway use.

261.8(1) If a person is operating as an L.P.G. dealer's or user's licensee and also makes bulk sales for nonhighway use, the licensee must maintain separate storage for bulk sales and sales for highway use.

261.8(2) If any amount of L.P.G. in a storage facility is used directly from bulk storage for highway purposes or if the storage is connected to a device which is designed in such a way as to be able to fuel motor vehicles, all fuel dispensed from the storage shall be dispensed through licensed metered pumps.

261.8(3) Tax is due on all fuel dispensed through licensed metered pumps unless such fuel is exempt as evidenced by exemption certificates.

This rule is intended to implement Iowa Code section 452A.8.

701—261.9(452A) Combined storage—bulk sales—highway sales or use.

261.9(1) *Generally.* If a person is operating as an L.P.G. dealer's or user's licensee, L.P.G. may be dispensed for bulk nontaxable sales and for taxable highway sales from the same storage if, and only if, the following requirements are complied with:

- a. All pumps that are of such a design to be able to fuel motor vehicles must be licensed, sealed, metered, and inspected as provided in rule 701—261.3(452A).
- b. All fuel passing through the pumps is taxed unless supported by exemption certificates.
- c. All pumps that are not licensed, sealed, metered, and inspected are of such a design that it is impossible to use them to place fuel into the fuel supply tank of a motor vehicle.
- d. Accurate records are kept showing all purchases of fuel and all nontaxable bulk sales of fuel.

261.9(2) *Presumption.* All L.P.G. placed in this combined storage is presumed to be for highway use and taxable unless supported by exemption certificates (for fuel passing through the licensed pumps) or detailed records showing bulk sales for nonhighway use or to other users or dealers (for fuel passing through the nonlicensed pumps).

261.9(3) *Separate storage.* If at any time the licensee fails to comply with the requirements of this rule, separate storage for taxable sales and nontaxable bulk sales will be required under rule 701—261.8(452A).

This rule is intended to implement Iowa Code section 452A.8.

701—261.10(452A) Exemption certificates.

261.10(1) *Certificate use.*

a. If L.P.G. is dispensed from metered highway storage for other than highway purposes, an exemption certificate must be completed by the seller and signed by the purchaser.

b. The dealer or user must retain completed exemption certificates.

c. Certificate information. The exemption certificate must include but is not limited to the following information:

- (1) Date,
- (2) Seller's name and license number,
- (3) Invoice number covering the fuel sold if sold by a dealer,
- (4) Identification of fuel's intended use,
- (5) Name, address, and signature of the purchaser or user.

d. The exemption certificate will be provided by the department, or a dealer or user may provide the exemption certificate if it contains all information required by the director.

261.10(2) *Exempt sales.*

a. *Exempt sale types.* Exempt sales of L.P.G. from metered highway storage are limited to the following uses:

(1) Placed directly into a fuel supply tank that is connected to the heating or cooling unit installed on a highway "reefer" unit, provided the fuel supply tank is not connected nor has provisions for connection directly or indirectly to the power source of the highway motor vehicle.

(2) Placed directly into the fuel supply tank of a nonhighway motor vehicle.

(3) Placed into carryout containers.

b. *Nonexempt sales.* All other sales for other than highway use must be from bulk storage and not from metered highway storage.

This rule is intended to implement Iowa Code section 452A.8.

701—261.11(452A) L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems.

261.11(1) *Exempt sales.*

a. If L.P.G. is sold to the state of Iowa, its agencies, a political subdivision of the state, or a regional transit system for public use, or a use specified in Iowa Code section 452A.57(11), and placed in storage, it may be sold tax-free.

b. Fuel sold by a dealer and delivered directly into the fuel supply tank of a motor vehicle must be sold tax-paid.

c. Since the L.P.G. delivered into storage is not subject to tax, the governmental unit or regional transit system need not be licensed as a special fuel user. However, if the L.P.G. is used by a governmental unit or regional transit system for other than “public purposes,” it must obtain a user’s license and pay the tax on all highway L.P.G. used from the storage.

261.11(2) *L.P.G. sold to a contract carrier under contract with public schools to transport pupils.*

a. When special fuel is sold directly to contract carriers who have a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school, the fuel shall be sold tax-paid.

b. If the contract carrier is licensed as an L.P.G. fuel dealer or user, the licensee may buy the fuel tax-free, but the tax must be remitted on the monthly dealer or user return.

c. Any contract carrier who has paid the tax is entitled to a refund.

(1) A refund requested by contract carriers will be reduced by the applicable sales tax, unless otherwise exempt.

(2) All contract carriers must apply to the department for a refund registration even if they currently hold a motor fuel tax license.

(3) 701—subrule 260.8(4) provides more information about this refund type.

This rule is intended to implement Iowa Code sections 452A.3 and 452A.17.

701—261.12(452A) Refunds.

261.12(1) *Availability.* Refunds of taxes paid on L.P.G., C.N.G., or hydrogen used for other than highway use are available if the tax has been paid.

261.12(2) *Refund process.*

a. To qualify for a refund, all of the following need to be met:

(1) The special fuel was used for a purpose other than to propel motor vehicles,

(2) The person requesting the refund has a refund permit,

(3) The claim is filed within the appropriate time and in the appropriate manner.

b. The income tax credit set forth in rule 701—260.11(452A) applies equally to special fuel.

This rule is intended to implement Iowa Code section 452A.17.

701—261.13(452A) Notice of meter seal breakage.

261.13(1) *Notice.* The department must be notified within 24 hours when the seal of any sealed meter is broken. The reason for the breakage does not affect this notification requirement.

261.13(2) *Content of notice.* Notice must contain but is not limited to the following information:

a. The name, address, and license number of the person who controls the meter.

b. The meter number.

c. The type of fuel pumped through the meter.

d. The date of seal breakage.

e. The name and address of the person(s) responsible for the seal breakage, if known.

f. The reason for seal breakage.

g. The meter reading before seal breakage.

h. The meter reading after the meter is resealed.

i. The signature of the person who controls the meter.

261.13(3) *Reports.*

a. For reporting purposes, the meter is be considered two meters, one before the seal breakage and one after. The return must note the seal breakage.

b. Meter readings.

- (1) The meter readings of the meter before the seal breakage must be reported by meter number as usual.
 - (2) The meter readings after the meter was resealed must be reported by using the meter number plus the letter "A."
 - (3) The two readings must appear on the same return schedule.
- This rule is intended to implement Iowa Code sections 452A.3, 452A.8, 452A.59, and 452A.62.

701—261.14(452A) Location of records—special fuel users and dealers.

261.14(1) *Generally.* The records required to be prepared and kept by special fuel dealers and users under Iowa Code section 452A.10 and 701—subrule 259.3(5) must be maintained at the location that appears on the license unless the licensee keeps the records at a central location as described in 701—subrule 261.16(2).

261.14(2) *Central location.*

- a. If the licensee has more than one license, all of the records for each separate license may be kept at a central location so long as the records for each license are kept separated.
- b. The central location where the records must be kept is within the state unless:
 - (1) The licensee brings the records into the state when requested to do so by the department for purposes of audit, or
 - (2) The licensee agrees to pay the cost (as defined in rule 701—259.3(452A)) of an out-of-state audit.

This rule is intended to implement Iowa Code sections 452A.10 and 452A.74(2).

ITEM 4. Rescind 701—Chapter 262 and adopt the following new chapter in lieu thereof:

CHAPTER 262
ELECTRIC FUEL EXCISE TAX

701—262.1(452A) Definitions and applicability.

262.1(1) *Definitions.* For the purpose of this chapter, terms have the same meaning as provided in Iowa Code sections 452A.2 and 452A.40 and rule 701—259.1(452A).

262.1(2) *Applicability of other rules.* All rules in 701—Chapters 259 and 260 apply if not specifically stated in this chapter.

This rule is intended to implement Iowa Code section 452A.41.

701—262.2(452A) Tax imposed. Electric fuel excise tax must be remitted to the department by a license holder regardless of whether the licensed electric fuel dealer or licensed electric fuel user sells the fuel or gives the fuel to customers for no charge. This tax shall be calculated based on the kilowatt-hours of electric fuel delivered.

This rule is intended to implement Iowa Code section 452A.41.

701—262.3(452A) Licensing.

262.3(1) *License requirements.*

a. *License required.* A person shall not sell or dispense electric fuel within this state at a location other than a residence or otherwise act as a licensed electric fuel dealer or user without a license. The holder of an electric fuel user's license is authorized to dispense electric fuel, measured in kilowatt-hours, into the batteries or other energy storage devices of electric motor vehicles owned or controlled by the holder.

b. *No license required for residential charging.* A person may dispense electric fuel at a residence without a license. "Residence" is defined in Iowa Code section 452A.40. For purposes of this rule, "residence" includes apartment buildings or other multiresidential facilities and houses regardless of whether the owner lives in the house. "Residence" does not include hotels, including extended-stay hotels, motels, or other facilities rented to transient guests.

EXAMPLE 1: Hotel A owns and operates an electric fuel charging station in its parking lot and offers electric fuel to its guests at no charge. Hotel A also owns an electric vehicle it uses as a shuttle for its guests and charges the vehicle at its charging station. Hotel A must obtain an electric fuel dealer's license because it dispenses fuel to customers as well as an electric fuel user's license because it charges its own vehicle at its charging station.

EXAMPLE 2: Hotel B hosts an electric fuel charging station in its parking lot and offers electric fuel to its guests for a fee. Hotel B owns an electric vehicle it uses as a shuttle for its guests and charges the vehicle at the charging station in its parking lot. The charging station in Hotel B's parking lot is owned by Station Retailer C. Station Retailer C must obtain an electric fuel dealer's license. Hotel B does not need to obtain an electric fuel license.

EXAMPLE 3: Homeowner D lists Homeowner D's house on a short-term home rental online platform. Homeowner D has an electric fuel charging station installed in the garage attached to the house. Guest E agrees to rent Homeowner D's house for a week. Guest E charges an electric vehicle using Homeowner D's charging station. Homeowner D does not need to obtain an electric fuel license.

EXAMPLE 4: Person F owns ten houses that each have electric fuel charging stations installed. Person F only resides in one of the houses and uses the other nine as rental properties. Person F does not need to obtain an electric fuel dealer license for any of the ten houses Person F owns.

EXAMPLE 5: Person G operates a motor carrier business as a sole proprietor. Person G owns an electric vehicle and uses the electric vehicle for the business. Person G operates the business from Person G's residence and charges the electric vehicle at that residence. Because Person G charges the electric vehicle at a residence, Person G does not need to obtain an electric fuel user license.

c. No license required for entities only dispensing nontaxable electric fuel. A person who only sells or dispenses electric fuel for which an exemption or refund may be claimed is not required to obtain a license to dispense such fuel.

EXAMPLE 1: Utility A is a municipal utility, wholly controlled by a municipality in Iowa. Utility A owns electric vehicle charging stations and only charges its own fleet of vehicles or other municipally owned vehicles at the charging stations. Utility A does not need an electric fuel user license since such sale or dispensing of electric fuel is not subject to tax pursuant to Iowa Code section 452A.17(1) "a"(3).

EXAMPLE 2: Utility B is a municipal utility, wholly controlled by a municipality in Iowa. Utility B owns electric vehicle charging stations where it charges its own fleet of vehicles. Utility B also allows individuals or private businesses to charge electric vehicles at its charging stations. Because Utility B is selling or dispensing fuel for nonpublic purposes when individuals or private businesses use its charging stations, Utility B must obtain an electric fuel dealer license.

262.3(2) License applications. Applications for a license must be filed electronically via GovConnectIowa and must be complete with all information required under Iowa Code section 452A.42(2). Applications must indicate the date on which the applicant began or plans to begin selling or dispensing electric fuel.

262.3(3) Electric fuel users. An electric fuel user's license does not grant authority to the holder of the license to sell or dispense electric fuel to consumers. A person wishing to sell or dispense fuel for vehicles the person owns or controls as well as to a consumer must obtain both an electric fuel user's license and an electric fuel dealer's license for each location from which electric fuel will be sold or dispensed.

262.3(4) No fee imposed. There is no fee to apply for or hold a license to sell or dispense electric fuel.

262.3(5) License for each place of business or location. A license is required for each separate place of business or location where electric fuel is placed into the battery or other storage device of an electric vehicle.

262.3(6) Denial of license application. The department may deny a license for any of the reasons provided in Iowa Code section 452A.42(4).

262.3(7) Bonding procedures. Existing license holders may be required to post a bond or security when they have had two or more delinquencies in remitting the electric fuel tax or filing returns timely during the past 12 months. The bond or security will be an amount sufficient to cover 12 months' electric

fuel tax liability or \$500, whichever is greater. The simultaneous late filing of the return and late payment of the tax will count as one delinquency. However, the late filing of the return or late payment of the tax will not count as a delinquency if the license holder can satisfy one of the penalty waiver conditions set forth in Iowa Code section 421.27. More information regarding waiver of bond is available in 701—paragraph 259.21(1)“e.”

This rule is intended to implement Iowa Code sections 452A.17 and 452A.42.

701—262.4(452A) Filing of returns and payment of tax.

262.4(1) *Required information on returns.* Licensed dealers and users of electric fuel must file with the department a biannual electric fuel excise tax return. For each location where electric fuel is placed into the battery or other storage device of an electric vehicle, the return must include the following information:

- a. The name and license number of the entity that owns the charging facility.
- b. In the case of a sole proprietorship, the individual owner’s name.
- c. In the case of a partnership, the names of all partners.
- d. The address of the location.
- e. Total number of kilowatt-hours delivered or placed into the battery or other storage device of an electric vehicle.

262.4(2) *Return and payment due date.* The electric fuel excise tax return must be filed with the department no later than the last date of the month following the close of the tax periods prescribed in Iowa Code section 452A.41. The return must be accompanied by remittance of the tax due for the period of the return.

262.4(3) *Electronic filing required.* Returns must be filed and payments must be remitted electronically through govconnect.iowa.gov.

262.4(4) *Consolidated return.* A license holder that holds more than one electric fuel license must file one consolidated return reporting sales made at all locations for which a license is held.

262.4(5) *International Fuel Tax Agreement returns not impacted.* The electric fuel excise tax return is separate and independent from the tax returns required under the International Fuel Tax Agreement.

This rule is intended to implement Iowa Code section 452A.41.

701—262.5(452A) Charging station verification and testing.

262.5(1) *Reporting of kilowatt-hours.*

a. Licensed dealers and users may rely upon the following methods to determine kilowatt-hours sold for reporting on a return:

- (1) Electric meters that measure only electricity sold as electric fuel.
- (2) Software included in a charging station that tracks kilowatt-hours that flow through the station.

b. If neither subparagraph 262.5(1)“a”(1) or 262.5(1)“a”(2) is available, prior to filing any returns, licensed dealers and users shall contact the department for approval of a method to calculate electricity used as electric fuel as determined by an electricity study.

262.5(2) *Testing of charging stations.* The department of agriculture and land stewardship tests all charging stations owned by licensed dealers and users pursuant to standards set forth in Iowa Code section 452A.41. The department of agriculture and land stewardship will report to the department any charging station that is not compliant with those standards.

This rule is intended to implement Iowa Code section 452A.41.

701—262.6(452A) Refunds.

262.6(1) *Filing of refund claim.* Taxpayers seeking to claim a refund of electric fuel tax must obtain a refund permit pursuant to Iowa Code section 452A.44. Because returns will be filed and tax paid on a biannual basis, refund claims may be filed and will only be processed on a biannual basis after the tax period for which the refund is sought has closed.

262.6(2) *Sales tax.* Electric fuel used in an exempt manner may be subject to sales tax. Rule 701—260.13(452A) contains more information regarding reductions in refunds due to the applicability of sales or use tax on exempt electric fuel sales.

262.6(3) *International Fuel Tax Agreement refunds not impacted.* This refund process is separate and independent from any refund process authorized under 761—Chapter 505 related to the International Fuel Tax Agreement.

This rule is intended to implement Iowa Code section 452A.44.

701—262.7(452A) Exemption certificates.

262.7(1) If electric fuel is sold or dispensed for a nontaxable purpose, the purchaser may complete and provide an exemption certificate produced by the department to the license holder. The certificate is to be retained by the license holder consistent with Iowa Code section 452A.43.

262.7(2) The exemption certificate must include but not be limited to the following information:

- a. The date.
- b. The license holder's name.
- c. The license holder's electric fuel dealer or electric fuel user license number applicable to the sale.
- d. The invoice number covering the fuel sold if it is sold by an electric fuel dealer.
- e. An indication of the use to which the fuel will be put.
- f. The name, address, and signature of the purchaser.

This rule is intended to implement Iowa Code sections 452A.17 and 452A.43.

[Filed 2/27/25, effective 4/23/25]

[Published 3/19/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9008C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to RISE program

The Transportation Department hereby rescinds Chapter 163, "RISE 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 307.12(1)"j" and 315.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 315 and section 312.2.

Purpose and Summary

This rulemaking repromulgates Chapter 163 in compliance with Executive Order 10. Chapter 163 implements a grant program utilizing the Revitalize Iowa's Sound Economy (RISE) fund as described in Iowa Code chapter 315. The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets. The RISE program is targeted toward value-adding activities to provide maximum economic impact to the state. Value-adding activities feed new dollars into the economy. As these dollars are circulated, the state experiences economic growth. Tourism activities that result in the attraction of out-of-state dollars to the state economy may also be targeted by the program. Residential development, local government facilities, local public schools, locally oriented business services and personal services are generally not value-adding activities and will rarely meet the intent of the program.

The RISE program is also administered to encourage economic diversification, new business opportunities, small business development, exporting, import substitution and tourism in Iowa.

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 8383C**. Two public hearings were held on the following date:

- December 17, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 163 and adopt the following **new** chapter in lieu thereof:

CHAPTER 163
RISE PROGRAM

761—163.1(315) General.

163.1(1) Definitions.

“*Brownfield site*” means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination.

“*Commission*” means the state transportation commission.

“*Direct jobs created*” refers to jobs new to the state in firms, developments, or sites specifically assisted by a RISE project.

“*Direct jobs retained*” refers to existing Iowa jobs that would otherwise be lost in firms, developments, or sites specifically assisted by a RISE project.

“*Economic development*” means private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost. For the purposes of this

program, economic development is viewed from a statewide perspective rather than a local or substate, regional perspective and results in a net gain to the state.

"Funding commitment" means commission approval of the use of RISE funds for a project.

"Grant" means funds received for a RISE project with no provision for applicant repayment of principal.

"Immediate opportunity project," one of the two types of RISE projects, is a roadway project that needs a funding commitment within a short time period and meets the threshold criteria in subrule 163.8(6). The project primarily provides improved access to a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction.

"Import substitution" means replacing inputs, products or services from out-of-state firms or locations with Iowa inputs, products or services.

"Jurisdiction" means the state, county, or city having legal authority over a road or street.

"Loan" means funds received for a RISE project with provision for applicant repayment of principal. A loan may involve the payment of interest charges.

"Local development project," one of the two types of RISE projects, is a roadway project that is programmed through a semiannual competitive rating procedure. The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

"Project" means an eligible activity or cost or set of eligible activities or costs funded with RISE program funds. The two types of projects that may be funded under the RISE program are immediate opportunity projects and local development projects.

"RISE" means revitalize Iowa's sound economy.

"Total capital investment" means the economic value of all permanent purchases, donations, or improvements directly associated with an economic development activity but not funded with RISE moneys, including land; improvements to land; buildings; equipment; furnishings; electric, gas, telephone, and other utilities; sanitary sewer and storm sewer extensions and hookups; and railroad spurs, access roads, parking lots, and other transportation facilities.

"Traffic impact analysis" means an analysis identifying system and immediate impacts associated with a proposed development to allow an assessment of the existing and future highway system's safety, performance, maintenance, and capacity needs and includes all necessary information as requested by the department.

"Transportation justification" means the reasons given for a project from a transportation planning and engineering standpoint. The justification should address the current condition of existing roadways or bridges, the relationship of the project to connecting roads, anticipated total traffic, anticipated large truck traffic, proposed major design features, roadway function, and the reasons the proposed alternative was selected over other available alternatives.

"Value-adding activities" means activities that, through the employment of knowledge or labor, add value to a product, process or service that results in the creation of new wealth to the state.

163.1(2) Information and forms. Information, instructions and application forms may be obtained from the Local Systems Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at 515.239.1738; or through the department's website at www.iowadot.gov/systems_planning/Grant-Programs/Revitalize-Iowas-Sound-Economy-RISE-Program.

761—163.2(315) Administration of RISE program.

163.2(1) Purpose.

a. The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets. The RISE program is targeted toward value-adding activities to provide maximum economic impact to the state. Value-adding activities feed new dollars into the economy. As these dollars are circulated, the state experiences economic growth. Tourism activities that result in the attraction of out-of-state dollars to the state economy may also be targeted by the program. Residential development, local government facilities,

local public schools, locally oriented business services and personal services are generally not value-adding activities and will rarely meet the intent of the program.

b. The RISE program is also administered to encourage economic diversification, new business opportunities, small business development, exporting, import substitution and tourism in Iowa.

163.2(2) The RISE program is administered by the department as a statewide program, with projects evaluated primarily on the basis of economic development criteria rather than solely on the basis of transportation criteria. In carrying out its program responsibilities, the department:

a. Involves local officials in program development and periodic program review and evaluation, including evaluation of the accomplishments and effectiveness of the RISE program. However, all project funding decisions are the responsibility of the commission.

b. Simplifies application processes and administrative procedures to the maximum practicable extent.

c. Designs the RISE program administrative procedures to be flexible enough to meet county and city needs.

d. Ensures neutrality and fairness in the treatment of all applications submitted for funding under the RISE program.

e. Promotes intergovernmental cooperation on economic development.

f. Promotes the use of innovative financing mechanisms for RISE projects.

163.2(3) The commission is responsible for all RISE project funding commitments. All project funding commitments are made subject to the availability of RISE funds.

163.2(4) The department will annually prepare a written report indicating the amount and percentage of funds committed during the previous year on primary roads, secondary roads, city streets, state park roads and county conservation parkways.

761—163.3(312,315) Allocation and use of RISE funds.

163.3(1) *Allocation among roadway jurisdictions.* The RISE fund is allocated for use on primary, city, and county roads.

163.3(2) *Funding limited to public roads.* The use of RISE funds is limited to construction or improvement of primary roads, secondary roads, city streets, state park roads and county conservation parkways presently open to public use or ones that will be dedicated and open to public use in the future. RISE funds are not to be used for private road projects or for any other private purpose. Project activities eligible for funding under the RISE program are listed in rule 761—163.6(315).

163.3(3) *Use of county or city RISE funds on primary road projects.* Counties or cities may at their option make application to the department to apply RISE funds allocated for use on secondary road or city street projects toward primary road projects. Use of county or city RISE funds on primary road projects is to be approved by the commission.

163.3(4) *Type of projects.* The two types of projects that may be funded under the RISE program are immediate opportunity projects and local development projects as described in the following rules of this chapter:

a. Immediate opportunity projects: rule 761—163.8(315).

b. Local development projects: rule 761—163.9(315).

163.3(5) *Relationship of project.* The demonstrated relationship of a project to economic development is generally the main criterion employed in determining the priority for funding. The department will assign the lowest priority to a project if it involves a business with wages substantially below other area businesses or with a consistent record of law violations. In terms of project type, immediate opportunity projects are prioritized for all available RISE funds.

163.3(6) *Use of repaid funds.* RISE funds repaid to the department for any reason may be used for other projects or carried over to the next programming cycle. RISE funds repaid are to be credited to the share of the fund from which the project was originally funded.

163.3(7) *Carryover of funds.* The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted city funds may be carried over to the next

programming cycle or used for immediate opportunity projects. On June 30 of each year, all uncommitted county funds are to be credited to the secondary road fund.

163.3(8) *Reserve for future needs and contingencies.* The commission will monitor RISE fund commitments and expected RISE fund cash flow and take actions necessary to ensure that funds remain available for anticipated present and future immediate opportunity project needs and other contingencies. Such actions may include placing a moratorium on the receipt and award of local development RISE applications, placing a limit on RISE dollars awarded to each project, or taking other actions at the discretion of the commission.

761—163.4(315) Project financing and funding shares.

163.4(1) *Financing.* Applicants may choose to propose grant financing for any RISE project. Applicants are encouraged to propose below-market rate interest loans, no interest loans, or partial principal payback rather than grant financing for RISE projects. The extent to which a project will return moneys to the RISE fund is to be considered in project evaluation processes. Final financial terms for all RISE projects are subject to negotiation between the department and the applicant and approval by the commission.

163.4(2) *Funding shares.* Applicants may propose the proportions and sources of RISE and non-RISE funds to be used for a project. Use of RISE funds is subject to commission approval.

761—163.5(315) Eligibility of applicants and joint applications.

163.5(1) *Applicant eligibility.* All incorporated cities and all counties in the state of Iowa are eligible to apply for and receive funds under the RISE program. The department is also eligible to initiate projects and receive funds under this program but need not formally apply for funds. Private firms or developers or other agencies are not eligible to apply directly for funds but are encouraged to work with county or city governments in seeking funding for projects. In any case, all projects are to be let by the applicant or through the department's contracts and specifications bureau and in accordance with all applicable laws and rules.

163.5(2) *Joint applications.* Joint applications from two or more counties or cities are encouraged when mutual action supports economic development. Joint applications are to designate a lead county or city to serve as a principal contact point for the department.

761—163.6(315) Project activities eligible and ineligible for RISE funds.

163.6(1) *Eligible activities.* Project activities or costs eligible for RISE funding and that may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects include only the following:

- a.* Roadway resurfacing, rehabilitation, modernization, upgrading, reconstruction or initial construction, including grading and drainage, paving, erosion control, pavement overlays, and shoulder widening and stabilization.
- b.* Bridge and culvert repair, modernization, replacement or initial construction.
- c.* Roadway intersection and interchange improvements, including warranted traffic signalization when it is integral to the improvement.
- d.* Public transportation system improvements, including but not limited to bus shelters, bus turnouts, and passenger information signage, when they are integral to the roadway improvement.
- e.* Bicycle and pedestrian infrastructure improvements, including but not limited to sidewalks, at-grade pedestrian crossings, bike lanes, and separated bike lanes, when they are integral to the roadway improvement.
- f.* Right-of-way acquisition costs, including but not limited to appraisals, negotiation, compensation, and cultural resources surveys necessary to comply with applicable local, state and federal laws, rules and regulations.
- g.* Construction or improvement of motorist rest areas, welcome centers, and information centers.
- h.* Design engineering costs leading to construction plan development and construction inspection costs associated with RISE-financed projects.

i. County and city bond principal and interest payments associated only with RISE projects. No financing expenses incurred prior to funding commitment are eligible, and no administrative or legal expenses may be reimbursed. The bond term is limited to the expected useful life of the roadway.

j. Storm drainage and storm sewer costs to the extent needed for draining the roadway.

k. Reconstruction or adjustment of utilities, including but not limited to water, sanitary sewer, electric, telephone, and natural gas, when utilities are located on private property and replacement or relocation due to project construction is necessary or when said utilities are located in the public right-of-way and agreements in place allow for compensation to the utility if relocation is necessary.

l. Costs associated with the acquisition of local, state and federal permits are limited to those directly related to the roadway construction.

m. Costs of modifications to railroad facilities are limited to those necessary to construct the RISE roadway, including but not limited to construction, hiring flaggers, and engineering performed by the railroad or the railroad's contractor, that are consistent with an executed agreement between the railroad and the roadway jurisdiction.

163.6(2) *Ineligible activities.* Activities or costs ineligible for RISE funding and that are excluded from the non-RISE participation in immediate opportunity or local development roadway projects include but are not limited to the following:

a. Any and all costs incurred prior to a funding commitment by the commission notwithstanding rule 761—163.7(315).

b. Routine roadway, bridge and culvert maintenance, including but not limited to pothole filling, crack sealing, seal coating, patching, shoulder maintenance, gravel or earth roadway maintenance, and bridge painting.

c. Winter roadway and bridge maintenance, including but not limited to snow plowing, sanding, and salting.

d. Overhead and operating costs associated with eligible project activities, including auditing.

e. Expenses associated with the preparation and submission of applications for RISE funding.

f. Predesign engineering, feasibility or alignment studies and other planning expenses.

g. Traffic signalization, except as an integral part of a roadway project.

h. Pavement marking and traffic signs, except as an integral part of a roadway project.

i. Utility construction, reconstruction or adjustment, except for those activities or costs described in subrule 163.6(1).

j. Safety appurtenances, except as an integral part of a roadway project.

k. Lighting, except as an integral part of a roadway project.

l. Lighting energy and maintenance costs.

m. Sidewalks, bicycle paths, and railroad-highway crossings, except when replacing those facilities in service and affected by the project or as an integral part of a roadway project.

n. Parking expenditures, including those for structures, lots, meters, paving, and marking whether for on-street or off-street parking.

o. Nonroadway transportation expenditures, including those for railway, aviation, public transportation, and inland waterway facilities and equipment.

p. Purchase of furnishings, construction equipment, and personal property.

q. General government expenses and expenses associated with the provision of any public service that are not eligible for RISE program assistance.

r. Donated right-of-way.

761—163.7(315) Advance eligibility of land acquisition and preliminary design costs incurred prior to funding commitment by commission.

163.7(1) *Need for advance eligibility.* If there is extreme urgency involving land acquisition or preliminary design and a necessity to protect or preserve a project corridor or to proceed with the preparation of project construction plans prior to a RISE funding commitment, a potential applicant may submit a written request to the department for a determination of advance eligibility to incur costs for land acquisition or preliminary design immediately. A determination of advance eligibility by the

department will allow specified costs incurred prior to a funding commitment by the commission to be eligible for reimbursement with RISE funding without jeopardizing the project's eligibility for funding approval but does not imply or guarantee that the commission will commit RISE funding to a subsequent application.

163.7(2) *Request, justification and review.* The request is to be received by the department prior to the expenditure and is to include justification regarding the extreme urgency and necessity to incur costs prior to a RISE funding commitment. A request for land acquisition is to also include a description of the land to be acquired, a summary of the estimated costs, and a map showing the parcels to be acquired. Preliminary design requests are to include a description of the project scope, location map, and proposed cross section. If the request will include consultant design costs, a draft agreement between the jurisdiction and the consultant is to be submitted that includes the scope of services to be rendered. Costs for RISE application preparation and submission or project feasibility, route alignment studies or other planning expenses as cited in paragraphs 163.6(2) "e" and "f" remain ineligible for RISE funding and are not to be included in a request for determination of advance eligibility. The department will review the submittal and provide written confirmation of the determination of advance eligibility following receipt of a request consistent with this rule.

163.7(3) *Eligibility of costs for reimbursement.* Any cost incurred before the request is received by the department will be ineligible for reimbursement. Costs receiving a determination of advance eligibility are to be noted in the subsequent RISE funding application submitted to the department. Land acquired or design work completed following a determination of advance eligibility will not be eligible for reimbursement with RISE funds if the property acquired or design work completed is not necessary to construct the proposed RISE project included in the subsequent application. Design costs receiving a determination of advance eligibility are not to exceed 10 percent of the total construction costs for the project. An application for funding that includes the expenditure is to be received by the department within two years following the determination of advance eligibility, or the costs may become ineligible for RISE funding.

761—163.8(315) Immediate opportunity projects.

163.8(1) *General provisions.* The following provisions are applicable to immediate opportunity projects:

- a.* Immediate opportunity projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.
- b.* There is no limit on the number of applications per county or city that will be considered for RISE funding.
- c.* Counties and cities may apply for single-year or multiyear funding. Multiyear funding is to be limited to funding commitments from no more than three program years' allocations.
- d.* Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.
- e.* An adequate transportation justification for the roadway project is to be provided. The proposed improvement need not be designed prior to project application, but the concept is to generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

163.8(2) *Contents of applications.* Each application for an immediate opportunity project is to contain the following:

- a.* General information, including the applicant's name, contact person, mailing address, telephone number, local economic development area and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.
- b.* Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost, and funding source) are to be

included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or direct jobs retained. Jobs created as a result of jobs being displaced elsewhere in the state are not to be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant is to provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant is to certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including maps showing site characteristics, such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. The department may request completion of a traffic impact analysis to supplement the transportation justification before it is reviewed.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution is to state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.2(315). The resolution is to also certify that the project meets the threshold criteria cited in paragraph 163.8(6)“a” and that any business assisted by the project that acquires or merges with an Iowa corporation within three years following the RISE application intends to make a good-faith effort to hire the workers of the merged or acquired company.

g. Documentation showing that the threshold criteria of subrule 163.8(6) have been met.

163.8(3) *Submission of applications.* Applications are to be submitted on a form provided by the department and may be submitted at any time. Once an application has been submitted, no further information concerning that application is accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications are to be dated accordingly.

163.8(4) *Incomplete applications.* An applicant is to fully complete the official application form and provide all other information identified in this chapter before the application will be considered by the commission.

163.8(5) *Verification of application materials.* Complete applications are reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission has complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

163.8(6) *Threshold criteria.* Funding commitment decisions for immediate opportunity projects are made on an individual basis. There is no competitive ranking of project applications. In order to gain a funding commitment, an application is to meet all of the following threshold criteria:

a. The project is to be related to an immediate, nonspeculative opportunity for permanent job creation or retention. The applicant county or city (or its agent) should be in the process of negotiating a location or retention decision with a developer or firm.

b. The applicant is to demonstrate that an immediate funding commitment is essential to influence the job location or retention decision.

c. The applicant is to demonstrate that necessary arrangements have been made for nonroadway factors (e.g., labor force training, zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed job creation or job retention activity.

d. The applicant is to commit to providing at least 20 percent non-RISE financial participation in the roadway project, except the commission may approve a participation amount that is less than 20 percent if it determines that the applicant city or county is economically distressed.

e. There is to be a strong likelihood that the total development, including the roadway project, can be completed in a timely manner. It is up to the applicant to identify a time schedule and maintain it. This time schedule may be adjusted for such reasons, including but not limited to the project involves unusually complex engineering studies, extensive real estate negotiations, extensive analysis for environmental clearances, or unusually complex planning for associated development. The commission may withdraw funding if time schedules have been misrepresented or have not been maintained.

163.8(7) *Review and funding of applications.*

a. Department staff reviews complete immediate opportunity project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff evaluates the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. This review is to be performed within a reasonable period of time after receipt of the application. Following this review, complete applications meeting the threshold criteria of subrule 163.8(6) are to be forwarded to the commission for action at its next meeting.

b. The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission will consider the amount of total capital investment per RISE dollar requested and the amount of RISE dollars requested per job created or retained.

c. The commission may deny funding for projects that will not result in net job creation or job retention from a statewide point of view, for instance, projects that simply involve the relocation of jobs or other economic activity within Iowa.

d. Immediate opportunity project applications may, at the discretion of the commission, be considered as applications for local development projects and included in the current round of local development project programming, regardless of the deadlines stated in subrule 163.9(3). However, immediate opportunity project applications submitted solely to circumvent the deadlines for local development project applications are not to be considered in this manner.

761—163.9(315) Local development projects.

163.9(1) *General provisions.* The following provisions are applicable to local development projects:

a. Local development projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.

b. There is no limit on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single-year or multiyear funding. Multiyear funding is to be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. An adequate transportation justification for the roadway project is to be provided. The proposed improvement need not be designed prior to project application, but the concept is to generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

163.9(2) *Contents of applications.* Each application for a local development project is to contain the following:

a. General information, including the applicant's name, contact person, mailing address, telephone number, local economic development program and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost and funding source) are to be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of jobs being displaced elsewhere in the state are not to be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant is to provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant is to certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including maps showing site characteristics such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. The department may request completion of a traffic impact analysis to supplement the transportation justification before it is reviewed.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution is to state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.2(315). The resolution is to also certify that any business assisted by the project that acquires or merges with an Iowa corporation within three years following the RISE application intends to make a good-faith effort to hire the workers of the merged or acquired company.

g. A summary showing that necessary arrangements have been made for nonroadway factors (e.g., zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed economic development activity.

163.9(3) *Submission of applications.* Applications are to be submitted on a form provided by the department.

a. Applications may be submitted at any time. However, in order to be considered in the current round of programming, complete applications are to be received by the department or postmarked no later than February 1 or September 1.

b. Once an application has been submitted, no further information concerning that application is accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications are to be dated accordingly.

163.9(4) *Incomplete applications.* An applicant is to fully complete the official application form and provide all other information identified in this chapter before the application will be considered by the commission. An applicant is to be notified if an application is incomplete.

163.9(5) *Verification of application materials.* Complete applications are reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission has complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

163.9(6) *Rating factors.* The following factors and potential rating points are to be used in assessing applications for local development projects. Assessment of these factors is to be the responsibility of the department.

a. Development potential. This factor measures the degree of certainty involved in the economic development activity to be supported by the proposed RISE project and the potential for future job growth. Maximum points: 35.

b. Economic impact. This factor measures the economic impact of the development activity to be supported by the proposed RISE project, including the number of direct jobs assisted, investment leveraging, the percentage of out-of-state sales and in-state suppliers, the impact on competition and diversification, and the quality of job factors. Maximum points: 20.

c. Local commitment and initiative. This factor measures the level of effort being put forth by the applicant to attract economic development and the adequacy of the supporting infrastructure. Maximum points: 35 (includes 5 points for the remediation or redevelopment of a brownfield site).

d. Transportation need. This factor measures the condition and quality of existing road or street service. Maximum points: 4.

e. Area economic need. This factor measures the economic condition of the area. Maximum points: 6.

163.9(7) *Review and funding of applications.*

a. The staff of the department reviews and rates complete local development project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff evaluates the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. Complete applications are to be forwarded to the commission for a funding commitment action within a reasonable period of time after the application deadline. An application considered but not funded in one programming cycle is not to be considered in a subsequent cycle without resubmittal by the applicant.

b. The commission may fund all or any part of an application and may make a funding commitment conditional upon adherence to a specific time schedule, realization of a development prospect, or fulfillment of other agreements.

761—163.10(315) Project administration.

163.10(1) *Agreement.* After a funding commitment has been made for a project, the department enters into a project agreement with the applicant. The agreement is to delineate responsibilities for

project planning, design, right-of-way, contracting, construction and materials inspection, and documentation. The agreement is to identify any additional stipulations regarding the project relating to specific jobs to be created or retained and land development contingencies consistent with rule 761—163.2(315). Procedures for documenting compliance with the agreement terms will also be identified in the agreement. By executing the agreement, the applicant agrees to comply with all local, state, and federal laws and rules and regulations that may apply to the project.

163.10(2) *Project payments.* Payments from the RISE fund to counties or cities are to be made on a cost reimbursement basis, and financial participation is to be limited to the maximum percentage allowed by the funding commitment. The non-RISE financial participation is to include only those items listed as eligible for RISE funding and may be in the form of cash, the value of design engineering and construction inspection services, or the cost of eligible advance right-of-way acquisitions or preliminary design pursuant to rule 761—163.7(315). Grants from other state agencies or programs may also contribute to the non-RISE financial participation if their laws and rules allow. The applicant is to provide documentation to the department supporting the value of any noncash contribution to the project. The department has the sole authority to determine the value of noncash contributions. Contributions made by a third party may be allowed.

163.10(3) *Project expenditures incurred prior to agreement.* Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, are eligible for reimbursement if a project agreement is subsequently executed. Reimbursement is to be paid following execution of the agreement.

163.10(4) *Remedies for noncompliance with project agreement.* The commission may revoke funding commitments, demand repayment of RISE funds loaned or granted or take both actions when the county or city has not fulfilled the terms of the project agreement.

163.10(5) *Cost overruns.* RISE funds committed for projects are for a maximum dollar amount. Cost overruns are the responsibility of the administering jurisdiction.

163.10(6) *Audit.* The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution. All force account work performed by a county or city on the project is to be audited.

These rules are intended to implement Iowa Code section 312.2 and chapter 315.

[Filed 2/21/25, effective 4/23/25]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9009C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to recreational trails program

The Transportation Department hereby rescinds Chapter 165, "Recreational Trails 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 307.12(1)"j" and 465B.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 465B.

Purpose and Summary

This rulemaking repromulgates Chapter 165 in compliance with Executive Order 10. Chapter 165 implements a statewide trails program as described in Iowa Code chapter 465B. The recreational trails program provides funds to establish recreational trails in Iowa for the use, enjoyment and participation of the public.

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 8384C**. Two public hearings were held on the following date:

- December 17, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 165 and adopt the following **new** chapter in lieu thereof:

CHAPTER 165
RECREATIONAL TRAILS PROGRAM

761—165.1(465B) General.**165.1(1) Definitions.**

“*Authority*” means a state or local government agency, municipal corporation, county or nonprofit organization having authority and responsibility for a trail.

“*Commission*” means the state transportation commission.

“*Recreational trail*” means a thoroughfare or track across land or snow, used for recreational purposes, such as pedestrian activities, including wheelchair use; skating or skateboarding; equestrian

activities, including carriage driving; nonmotorized snow trail activities, including skiing; bicycling or use of other human-powered vehicles; providing access to aquatic or water activities; and motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

“Recreational trails funds” means funds appropriated for the acquisition, construction, and improvement of recreational trails.

165.1(2) Information and forms. Information, instructions and application forms may be obtained from the Local Systems Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1252; or through the department’s website at www.iowadot.gov/systems_planning/Grant-Programs/-Federal-and-State-Recreational-Trails.

761—165.2(465B) Program administration.

165.2(1) Purpose. The recreational trails program provides funds to establish recreational trails in Iowa for the use, enjoyment and participation of the public. The department administers the recreational trails fund as a statewide program.

165.2(2) Funding.

a. The commission is solely responsible for all funding commitments and determines the projects to be funded, subject to the availability of recreational trails funds. The commission may approve, modify, or deny an application. The commission may fund all or part of a project and may make funding conditional upon adherence to a time schedule or to fulfillment of an agreement.

b. The commission need not commit all funds available during a programming cycle. The commission may reserve unexpended or repaid funds for the next programming cycle or for anticipated present and future project needs and other contingencies.

c. Project costs that exceed the commission’s funding commitment are not eligible for reimbursement from the recreational trails fund. Reimbursement for project costs is limited to the percentage match approved by the commission and actual eligible project costs incurred.

761—165.3(465B) Applicant eligibility.

165.3(1) A state or local government agency, a municipal corporation, a county or a nonprofit organization is eligible to apply for and receive funds from the recreational trails program.

165.3(2) A private business or developer is not eligible to apply directly for funds from the recreational trails program.

761—165.4(465B) Project eligibility.

165.4(1) Public use. The recreational trails program is limited to the acquisition, construction or improvement of recreational trails open for public use or trails that will be dedicated to public use upon completion. A private trail project or a project for a private purpose is not eligible for funding under this program.

165.4(2) Criteria. A proposed recreational trails project is to meet all of the following:

a. The project is to be part of a local, areawide, regional or statewide plan.

b. The trail route is to be designed to allow enjoyment of scenic views or points of historical interest and to maximize safety. The route may use existing roads, streets or parkways, if the normal flow of motor vehicle traffic will not be hindered; abandoned railroad corridors; utility corridors; or new right-of-way as necessary.

c. The project is to include a contribution of at least 25 percent matching funds.

d. Matching funds may include grants from other state agencies or programs if their laws and rules allow and the donation of in-kind labor, materials, equipment, and services from a third party. The department has the sole authority to determine the value of noncash contributions. The value of donated land may be an eligible matching contribution if:

(1) The land is donated after the commission’s funding commitment, and

(2) The value is based on a real estate appraisal acceptable to the department. The appraisal is subject to review and approval by the department after a funding commitment has been made.

761—165.5(465B) Eligible project costs.

165.5(1) *Land.* Land acquisition costs, including but not limited to appraisals, negotiation, compensation and cultural resources surveys necessary to comply with applicable local, state and federal laws, rules and regulations, are eligible project costs. Land may be acquired by lease, easement or fee simple and as allowed by Iowa Code section 6A.21. The performance of land negotiation and acquisition activities is not the responsibility of the department, although the department may provide advisory services.

165.5(2) *Other eligible costs.* Other project costs that are eligible for funding are limited to the following:

- a.* Trail surfacing, resurfacing, rehabilitation, modernization, upgrading and reconstruction, including pavement repairs and overlays and shoulder widening and stabilization; or initial trail construction, including grading, drainage, paving and erosion control.
- b.* Bridge and culvert repair, modernization, replacement or initial construction.
- c.* Roadway intersection and interchange improvements, including warranted traffic signalization that is an integral part of the project.
- d.* Construction or improvement of rest areas, information centers, waysides, permanent interpretive displays, lighting and rest rooms, including the costs of utility connections that are an integral part of the project.
- e.* Design engineering costs leading to construction plan development and construction inspection costs directly associated with the project.
- f.* Storm drainage and storm sewer costs to the extent needed for draining the trail.
- g.* Reconstruction or adjustment of utilities, including but not limited to water, sanitary sewer, electric, telephone, and natural gas when utilities are located on private property and replacement or relocation due to project construction is necessary; or said utilities are located in the public right-of-way and agreements in place allow for compensation to the utility if relocation is necessary.
- h.* Trail signs, fencing, landscaping, parking areas, and walkways.

761—165.6(465B) Ineligible project costs.

165.6(1) *Before commission approval.* Any and all costs incurred prior to a funding commitment by the commission are ineligible for funding notwithstanding rule 761—165.7(465B).

165.6(2) *Other ineligible costs.* Other project costs that are ineligible for funding include but are not limited to the following:

- a.* Routine maintenance of a trail, bridge, culvert, fence or sign; winter maintenance of a trail or bridge, including but not limited to snow plowing, sanding, and salting.
- b.* Overhead and operating costs associated with a project, such as auditing, legal and administrative costs.
- c.* Expenses associated with the preparation and submission of a project application.
- d.* Predesign engineering, feasibility, or alignment studies and other planning expenses.
- e.* Utility construction, reconstruction or adjustment except for those activities or costs described in subrule 165.5(2).
- f.* Pavement markings, traffic signs, safety appurtenances or lighting except as an integral part of a trail project.
- g.* Purchases of office furnishings or equipment, construction or maintenance equipment, or personal property.
- h.* General government expenses and expenses associated with the provision of any public service that are not otherwise eligible for project funding.

761—165.7(465B) Advance eligibility of land acquisition and preliminary design costs incurred prior to funding commitment by commission.

165.7(1) *Need for advance eligibility.* If there is extreme urgency involving land acquisition or preliminary design and a necessity to protect or preserve a project corridor or to proceed with the preparation of project construction plans prior to a recreational trails program funding commitment, a

potential applicant may submit a written request to the department for a determination of advance eligibility to incur costs for land acquisition or preliminary design immediately. A determination of advance eligibility by the department will allow specified costs incurred prior to a funding commitment by the commission to be eligible for reimbursement with recreational trails program funding without jeopardizing the project's eligibility for funding approval but does not imply or guarantee that the commission will commit recreational trails program funding to a subsequent application.

165.7(2) *Request, justification and review.* The request is to be received by the department prior to the expenditure and is to include justification regarding the extreme urgency and necessity to incur costs prior to a recreational trails program funding commitment. A request for land acquisition is to also include a description of the land to be acquired, a summary of the estimated costs, and a map showing the parcels to be acquired. Preliminary design requests are to include a description of the project scope, location map, and proposed cross section. If the request will include consultant design costs, a draft agreement between the jurisdiction and the consultant is to be submitted that includes the scope of services to be rendered. Costs for recreational trails program application preparation and submission or project feasibility, route alignment studies or other planning expenses as cited in paragraphs 165.6(2) "c" and "d" remain ineligible for recreational trails program funding and are not to be included in a request for determination of advance eligibility. The department will review the submittal. The department will provide written confirmation of the determination of advance eligibility following receipt of a request consistent with this rule.

165.7(3) *Eligibility of costs for reimbursement.* Any cost incurred before the request is received by the department will be ineligible for reimbursement. Costs receiving a determination of advance eligibility are to be noted in the subsequent recreational trails program funding application submitted to the department. Land acquired or design work completed following a determination of advance eligibility will not be eligible for reimbursement with recreational trails program funds if the property acquired or design work completed is not necessary to construct the proposed recreational trails program project included in the subsequent application. Design costs receiving a determination of advance eligibility are not to exceed 10 percent of the total construction costs for the project. An application for funding that includes the expenditure is to be received by the department within two years following the determination of advance eligibility, or the costs may become ineligible for recreational trails program funding.

761—165.8(465B) Application.

165.8(1) *Submission.* An eligible applicant is to complete and submit an application on a form and in the quantity prescribed by the department.

- a. An eligible applicant may submit more than one application in a funding cycle.
- b. Two or more eligible applicants may submit a joint application and are encouraged to do so when mutual action supports the development of the project. A joint application is to designate a lead applicant to serve as the principal contact with the department.
- c. The application deadline is to be on the first day of the fiscal year for which funding has been provided to the program and any additional stated deadline as deemed necessary by the department to fully award program funding.
- d. Applications are to be received by the department by the stated application deadline.
- e. All applications for funding are to be complete. The department reserves the right to return an incomplete application to the applicant without further consideration for funding. An applicant may then submit a completed application for the next available funding cycle.
- f. An application that is considered but not funded in one funding cycle may be resubmitted by the applicant for consideration in the next cycle.

165.8(2) *Contents of application.* Each application is to contain the following:

- a. The applicant's name, mailing address, email address, and telephone number, and the contact person who will serve as liaison with the department.
- b. A project concept statement, including a location map, a cross section and a sketch of the project intended to be constructed with program funds. The proposed project need not be designed

before applying, but the concept is to be reasonable from a transportation engineering standpoint and detailed enough to generate project cost estimates.

c. An itemized cost estimate for the total project to be constructed, showing for each item the cost and funding source. When a project is part of a larger multiphase project, the application is to differentiate the costs and scope of the proposed construction project from the costs and scope of the overall multiphase project.

d. A time schedule for project completion. A time schedule adjustment may be approved by the department if the project involves unusually complex studies, extensive real estate negotiations, extensive analyses for environmental clearances, complex planning for associated developments, or another compelling reason.

e. An adequate justification for the recreational trails project based on the project eligibility criteria in subrule 165.4(2) and the evaluation criteria in subrule 165.9(2).

f. A formal resolution passed by the governing body of the responsible authority endorsing the application and the timeline for project completion provided therein. The resolution is to also state that the proposed trail project will be adequately maintained and made available for the intended public use for a minimum of 20 years after completion of the project and acknowledge intent to provide all funds necessary to complete the project beyond any funding award.

165.8(3) *Funding requests.* An applicant is to specify in the application the amount of grant funding requested from the recreational trails program and may offer a matching fund contribution larger than 25 percent.

761—165.9(465B) Evaluation and approval.

165.9(1) The department will review each application, may verify the contents and may visit the trail site.

165.9(2) The department will evaluate each complete application primarily on the basis of whether the predicted use of the trail justifies the construction and maintenance costs, including but not limited to the following criteria:

- a.* Need, in terms of the population to be served and existing trails in the area.
- b.* Compatibility with local, areawide, regional or statewide plans.
- c.* Benefits of multiple uses and recreational opportunities.
- d.* Economic and tourism benefits to the local area.
- e.* Accessibility.
- f.* Project readiness for development.
- g.* Local match to be contributed to the project.

165.9(3) Completed applications are to be reviewed by a committee composed of representatives from state agencies with jurisdiction over transportation, tourism, cultural resources and natural resources. The committee is to recommend applications to the department by ranking them in order of funding priority.

165.9(4) The department is to prepare a list of applications and funding recommendations and present it to the commission for final approval and award of funding.

761—165.10(465B) Project agreement.

165.10(1) After the commission has approved funding for a recreational trails project, the department enters into a project agreement with the applicant.

a. The agreement is to specify the responsibilities for project planning, design, land acquisition, contracting, construction and materials inspection, and documentation and the criteria for each. The agreement is to also specify the overall funding level approved and contain an estimated budget for eligible work items.

b. By executing the agreement, the applicant agrees to comply with all local, state and federal laws, rules and regulations that may apply to the project.

165.10(2) The department will reimburse the authority for actual eligible project costs incurred as specified in the agreement, not to exceed the amounts authorized by the project agreement.

165.10(3) Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, are eligible for reimbursement if a project agreement is subsequently executed. Reimbursement is to be paid following execution of the project agreement.

165.10(4) The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution. All force account work performed by a county or city on the project is to be audited.

165.10(5) The department may revoke funding commitments, seek repayment of funds already reimbursed, or take both actions if:

- a.* The terms of the project agreement have not been fulfilled.
 - b.* An agreement has not been signed within six months after the project sponsor receives the signature copy.
 - c.* The department finds that the application contained inaccuracies, omissions, errors or misrepresentations.
 - d.* The time schedule for project completion was misrepresented or has not been maintained.
- These rules are intended to implement Iowa Code chapter 465B.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9010C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to project cost reporting requirements for cities

The Transportation Department hereby rescinds Chapter 178, "Project Cost Reporting Requirements for Cities and Counties," 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 314.1A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 309.1, 309.22, 309.93, 312.14, 314.1 and 314.1A.

Purpose and Summary

This rulemaking repromulgates Chapter 178 in compliance with Executive Order 10. Chapter 178 implements cost reporting of projects that cities and counties construct.

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 8388C**. Two public hearings were held on the following date:

- December 20, 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 February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 178 and adopt the following **new** chapter in lieu thereof:

CHAPTER 178
PROJECT COST REPORTING REQUIREMENTS
FOR CITIES AND COUNTIES

761—178.1(314) Purpose and contact information.

178.1(1) The purpose of these rules is to establish requirements for the reporting by cities and counties of project cost information to the department, in accordance with Iowa Code section 314.1A.

178.1(2) Questions regarding this chapter may be directed to the Local Systems Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010 or www.iowadot.gov/local_systems.

761—178.2(309,314) Definitions.

“Bridge” means the same as defined in Iowa Code section 309.1.

“City” means a municipal corporation as defined in Iowa Code section 312.8 or 362.2.

“Construction” means the building or development of a road, street, bridge, or culvert in a new location when:

1. The new location deviates substantially from the existing alignment, and
2. The result is an entirely new road or street for the greater part of the length of the project.

“Culvert” means the same as defined in Iowa Code section 309.1.

“Day labor” means road, street, bridge, or culvert work, or materials that have not been subjected to bids. This includes work performed by permanent or temporary city or county employees, materials purchased by a city or county without taking formal bids, or contractor services that were not formally bid.

“Improvement” means a betterment to a road, street, bridge, or culvert. The work increases the value of the facility and enhances the facility, its traffic operations, or its safety beyond the original design. The work would not be so extensive as to be classified as construction or reconstruction, but it could involve rehabilitation, restoration, or resurfacing (3R) work.

“Reconstruction” means a significant change to the existing type of road, street, bridge, or culvert or its geometric or structural features. Some realignment and the use of current design criteria may be involved.

761—178.3(309,312,314) Detailed instructions furnished to cities and counties.

178.3(1) Each year, the department provides cities and counties a set of detailed instructions for reporting the following information:

- a. The cost of day labor and contracts for construction, reconstruction, and improvement projects on the farm-to-market, secondary road, and municipal street systems.
- b. The cost of purchasing, leasing, and renting construction and maintenance equipment.
- c. The use of this equipment for construction, reconstruction, and improvement projects on the farm-to-market, secondary road, and municipal street systems.

178.3(2) These instructions constitute the form, content, and method of preparation acceptable to the department. Cities and counties include this information in the annual reports they submit to the department under Iowa Code sections 309.22 and 312.14.

761—178.4(314) Project reporting. Reporting of projects accomplished by day labor or contract is required for any construction, reconstruction, or improvement project that has a total cost of 90 percent or more of the applicable bid threshold. Other reporting requirements set out in the Iowa Code still apply.

178.4(1) *Types of projects.*

- a. *Bridge.* Bridge project types include the following:
 - (1) Bridge. This project type includes removal of existing structures and all new construction, reconstruction, and improvement of bridges.
 - (2) Culvert. This project type includes new construction or installation of an individual box or pipe culvert with a span or diameter that is greater than 4 feet but no greater than 20 feet.
- b. *Road.* Road project types include the following:
 - (1) Roadway construction. This project type includes but is not limited to all types of excavation, overhaul, clearing and grubbing, removal of pavement, and culverts included with grading.
 - (2) Surfaces. This project type includes but is not limited to:
 1. Hot mix asphalt and Portland cement concrete pavements and overlays on roads, streets and shoulders.
 2. Stabilized bases and granular surfacing on new grades.
 - (3) Roadside construction. This project type includes but is not limited to:
 1. Erosion control structures, such as check dams and letdown structures.
 2. Landscape treatments, such as seedbed preparation, seeding, sodding, mulching, fertilizing, and planting of shrubs and trees on newly graded roads.
 3. Construction of shoulders on paved roads and rebuilding or raising entrances due to shoulder construction.
 - (4) Traffic control. This project type includes but is not limited to installation of major signs, traffic signals, railroad crossing signals, guardrail, roadway lighting, construction signing, and pavement markings on newly paved roads and streets.
 - (5) Miscellaneous. This project type includes but is not limited to construction, reconstruction, or installation of storm sewers, subdrains, retaining walls, noise barriers, and sidewalks.

178.4(2) *Contract work.* The cost of contract work on a project is the contract price plus additions and deductions.

178.4(3) *Day labor.* The cost of day labor on a project includes the following expenditures:

- a. *Labor.* Labor cost includes the wages of city or county employees for their time devoted to the project, plus corresponding fringe benefits, such as but not limited to IPERS, FICA, and insurance.
- b. *Equipment.* Equipment cost is calculated based on the equipment used on the project and the time the equipment is used. If an item of equipment is rented or leased, its rental or lease rate may be used to calculate cost. If an item of equipment is not rented or leased, its cost is to be calculated using the standard rate established by the department for that type of equipment or using a city- or county-

established rate based on actual expense data. The department establishes equipment rates each year based on the latest “Rental Rate Blue Book for Construction Equipment.”

c. Materials. Materials cost is the cost of materials and supplies consumed or expended on the project. The materials and supplies may be procured directly for the project or charged to the project from stock on hand. The cost of used material is its salvage value.

d. Overhead. Overhead cost is the pro rata share of indirect costs to be allocated to day labor projects. Indirect costs are the city’s or county’s road- or street-related costs that cannot be charged directly to any project. The city or county may use its records to calculate the cost of overhead, or it may use a standard overhead rate of 10 percent of the labor cost, excluding fringe benefits.

These rules are intended to implement Iowa Code sections 309.1, 309.22, 309.93, 312.14, 314.1, and 314.1A.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9011C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to motor vehicles operated by an automated driving system

The Transportation Department hereby rescinds Chapter 380, “Motor Vehicles Operated by an Automated Driving System,” 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 321.519.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and sections 321.1, 321.16, 321.20, 321.31, 321.381, 321.482 and 321.514 through 321.519.

Purpose and Summary

This rulemaking repromulgates Chapter 380 in compliance with Executive Order 10. These rules outline vehicle registration and exemption processes that driverless-capable vehicles are to follow to ensure safe operation of such vehicles as required by Iowa Code sections 321.514 through 321.519. These Iowa Code sections authorize automated driving system (ADS)-equipped vehicles to operate on public highways in Iowa under certain conditions and give the Department exclusive regulatory authority over these vehicles.

The intended benefit of these rules is to provide vehicle owners, vehicle manufacturers, the law enforcement community, the automotive industry, and any other interested parties with transparency regarding implementation of the authority given to the Department in Iowa Code section 321.519 to regulate these vehicles by doing the following: establishing clear and transparent processes to register the vehicles, including operational restrictions, if applicable; outlining the process to apply for an exemption if the vehicle cannot comply with all traffic laws and regulations; and providing clear and transparent appeal procedures relating to the Department’s decisions and actions under the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8389C**. Two public hearings were held on the following date:

- 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 February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 380 and adopt the following **new** chapter in lieu thereof:

CHAPTER 380**MOTOR VEHICLES OPERATED BY AN AUTOMATED DRIVING SYSTEM**

761—380.1(321) Applicability. This chapter applies to driverless-capable motor vehicles operated by an automated driving system.

761—380.2(321) Definitions. The definitions in Iowa Code section 321.514 are adopted and incorporated herein. In addition:

“*Conventional human driver*” means the same as defined in Iowa Code section 321.514 but does not include a driverless-capable vehicle passenger.

“*Driverless-capable vehicle*” as defined in Iowa Code section 321.514 means the vehicle meets the criteria for automation classification of Level 3, Level 4, or Level 5 as established in the April 30, 2021, edition of “Taxonomy and Definitions for Terms Related to Driving Automated Systems for On-Road Motor Vehicles” by the Society of Automotive Engineers (SAE), which is accessible by web link on the department’s website listed under rule 761—380.3(321).

“Driverless-capable vehicle passenger” means a person who does not control the in-vehicle accelerating, braking, steering, and transmission gear selection input devices in order to operate a motor vehicle and who is not otherwise expected to respond to a request to intervene issued by the automated driving system of a driverless-capable vehicle.

“SAE” means the Society of Automotive Engineers, which is an international association reputed for its standards development efforts, including its efforts to standardize definitions of driving automation systems.

761—380.3(321) Information and addresses. Information and forms pertaining to driverless-capable vehicles may be obtained 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 central.vehicle@iowadot.us; or on the department’s website at: www.iowadot.gov/automatedtransportation/Policies-Procedures.

761—380.4(321) Registration of driverless-capable vehicles.

380.4(1) Upon registration of a driverless-capable vehicle under 761—subrule 400.3(16) or notification of a vehicle modification under 761—subrule 400.21(5), the department will notate the vehicle’s SAE level of automation in the records system established under Iowa Code section 321.31. Any changes to the SAE level of automation are to be reported to the department by the vehicle owner, or manufacturer on behalf of the owner.

380.4(2) Upon request, the vehicle owner, or manufacturer on behalf of the owner, is to provide to the department the vehicle’s operational design domain and associated operational capabilities, which the department may review to impose operational restrictions as provided in rule 761—400.21(321) as a condition of registration of the vehicle. Any subsequent material changes to the vehicle’s operational design domain and associated operational capabilities related to any previously imposed operational restrictions are to be submitted to the department in order to determine whether the previously imposed operational restrictions should be modified or removed as a result of such changes.

761—380.5(17A,321) Driverless-capable vehicle exemption.

380.5(1) Application. The owner, or manufacturer on behalf of the owner, of a driverless-capable vehicle seeking an exemption under Iowa Code section 321.515(1)“b” may apply to the department to allow driverless operation of the vehicle. Applications are to be made on a form prescribed by the department and are to include:

- a.* Identification of the laws or regulations from which the driverless-capable vehicle is seeking an exemption.
- b.* Information describing how the vehicle will be operated under the exemption without posing a safety risk to the public.

380.5(2) Issuance and display of exemption. An exemption may be issued, subject to any operational restrictions as provided under rule 761—400.21(321), if the department has sufficient information to determine a public safety risk does not exist. The department will provide written notice of the exemption to the vehicle owner, and if applicable, to the manufacturer. The notice shall be maintained at all times in the driverless-capable vehicle and made available for display to any peace officer upon request.

380.5(3) Revocation and reinstatement.

a. The department may revoke a driverless-capable vehicle exemption in any of the following circumstances:

- (1) If the exemption has been issued in conflict with the statutes or rules governing the exemption’s issuance.
- (2) If the exemption was issued based on false information.
- (3) If there was a violation of Iowa Code sections 321.514 through 321.519, 761—Chapter 400 or this chapter.

(4) If the vehicle operating under the exemption is involved in a contributive motor vehicle accident attributable to the automated driving system performance in this or any other state and that accident results in death or serious injury.

(5) If the vehicle is operated in violation of any of the motor vehicle laws of this or any other state that results in death or serious injury.

b. For incidents occurring outside the state of Iowa, revocation may only occur once the investigation of the incident is completed, and the vehicle's automated driving system performance was found to be involved in or contributive to a motor vehicle accident that resulted in a death or serious injury. The effective date of the suspension or revocation shall be 20 days after the department has mailed notice of the revocation to the vehicle owner, and manufacturer if applicable, by first class mail. To reinstate the exemption, the vehicle owner, or manufacturer on behalf of the owner, is to reapply for the exemption.

380.5(4) Hearings. A vehicle owner, or manufacturer on behalf of the owner, whose driverless-capable vehicle exemption has been revoked may contest the revocation in accordance with Iowa Code chapter 17A and 761—Chapter 13. The request for a hearing must be submitted to the director of the motor vehicle division at the address in rule 761—380.3(17A). The request will be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice. The department will stay the revocation for the duration of the hearing proceedings.

761—380.6(321) Submission in aggregate. Information or application reported or submitted by a manufacturer on behalf of the owner to the department under rule 761—380.4(321) or rule 761—380.5(17A,321) may be reported or submitted in aggregate by vehicle make and model.

These rules are intended to implement Iowa Code chapter 17A and sections 321.1, 321.16, 321.20, 321.31, 321.381, 321.482, and 321.514 through 321.519.

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ARC 9012C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to salvage

The Transportation Department hereby rescinds Chapter 405, "Salvage," and adopts a new Chapter 405, "Salvage and Other Title Designations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)"j," 321.52(4), 321.52(5) and 321.69(12).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.13, 321.24(4), 321.24(5), 321.24(6), 321.52, 321.69, 321H.2 and 322G.12 and 28 CFR Section 25.54.

Purpose and Summary

This rulemaking repromulgates Chapter 405 in compliance with Executive Order 10. The purpose of Chapter 405 is to outline clear standards for vehicle owners, buyers, sellers, insurers and dealers regarding the titling and registration process for vehicles with title designations other than regular, such as "salvage," "junk" and "rebuilt." The chapter implements the Department's express authority under

Iowa Code sections 321.24(5) and 321.24(6) to require out-of-state title designations when a vehicle has incurred prior damage; to determine the manner in which other states' rebuilt, salvage or other designations are to be indicated on Iowa titles; and determine whether a "rebuilt" or "salvage" designation supersedes another designation.

The purpose of the chapter is also to outline procedures for the conduct of "salvage theft examinations" as required under Iowa Code section 321.52. This Iowa Code section requires the owner of a "salvage" designated vehicle to repair the vehicle and have a salvage theft examination performed by a specially certified peace officer before the owner may be issued a regular certificate of title to ensure that the parts used to repair the vehicle were lawfully obtained.

The chapter will provide individuals and businesses transparency and clarity on how to convert a foreign (out-of-state) vehicle into Iowa and how to convert a vehicle with a "salvage" designation to a "rebuilt" status and robust consumer protection measures by ensuring vehicle records checks are in place so that unknowing individuals or fraudulent actors cannot conceal prior damage on a vehicle by converting to a clean title.

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 8394C**. Two public hearings were held on the following date:

- 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 February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 405 and adopt the following **new** chapter in lieu thereof:

CHAPTER 405 SALVAGE AND OTHER TITLE DESIGNATIONS

761—405.1(321,322G) Applicability and information.

405.1(1) This chapter applies to motor vehicles subject to Iowa Code sections 321.24, 321.52, 321.69, and 322G.12.

405.1(2) Information regarding this chapter may be obtained by mail from the Motor Vehicle Division, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa 50201; by email at central.vehicle@iowadot.us; or on the department's website at www.iowadot.gov/mvd/vehicleregistration.

761—405.2(321,321H) Definitions.

405.2(1) The definitions in Iowa Code section 321.1 are hereby adopted. In addition:

“*Authorized vehicle recycler*” means a person licensed under Iowa Code chapter 321H.

“*Bill of sale*” means a document provided by the seller to the buyer containing the name, contact information of the seller, a description and identification number of the component part and, if applicable, the vehicle identification number (VIN) of the vehicle from which it was removed.

“*Foreign jurisdiction*” means a jurisdiction other than Iowa.

“*New motor vehicle dealer*” means a dealer licensed under Iowa Code chapter 322 to sell new motor vehicles that have not been sold “at retail” or previously registered in this or any other state.

“*Regular foreign title*” means a certificate of title issued by a foreign jurisdiction that allows the vehicle to be driven or moved upon a highway and is not designated as “salvage.”

“*Regular Iowa title*” means an Iowa certificate of title that is not a salvage title.

“*Salvage theft examination certificate*” means a certificate, including an electronic certificate in the form and manner prescribed by the department, issued by a peace officer who has been specially certified to conduct salvage theft examinations as provided in Iowa Code section 321.52.

“*Salvage title*” means either an Iowa or a foreign salvage title unless otherwise specified.

“*Wrecked or salvage vehicle*” means a damaged motor vehicle that:

1. Has repair costs exceeding 70 percent of its fair market value before it became damaged, and
2. Had a fair market value of \$500 or more before it became damaged.

405.2(2) Fair market value, for the purposes of this chapter, is to be determined by the motor vehicle division using any of the following: a bill of sale, an appraisal conducted by a motor vehicle dealer or a third-party appraiser, or a commercially available motor vehicle pricing guide.

761—405.3(321) Salvage title.

405.3(1) *Face of title.* Except for vehicles with a gross vehicle weight rating of 30,000 pounds or more, the word “SALVAGE” is to be printed on the face of an Iowa salvage title.

405.3(2) *Assignment.* A salvage title may be assigned only as provided in Iowa Code section 321.52(4). Except as provided in subrule 405.3(3), the transferee to whom a salvage title is assigned shall, within 30 days after the date of assignment, apply for a new Iowa salvage title, a regular title or an Iowa junking certificate.

405.3(3) *Reassignment.* If a vacant reassignment space is available on the salvage title, a licensed new motor vehicle dealer or an authorized vehicle recycler may reassign the salvage title, and the dealer or recycler is not required to obtain a new Iowa salvage title. If all reassignment spaces on a salvage title assigned to the dealer or recycler have been used, the dealer or recycler is required to obtain a new Iowa salvage title in accordance with subrule 405.3(2). The words “ONLY NEW MOTOR VEHICLE DEALERS OR RECYCLERS MAY REASSIGN THIS TITLE” are to be printed on the dealer reassignment portion of Iowa salvage titles.

405.3(4) *Registration fees.*

a. An Iowa salvage title may be obtained without payment of the current registration fees or any delinquent registration fees or registration penalties. If the registration fees are delinquent at the time an Iowa salvage title is issued, no additional penalties accrue after issuance.

b. Any registration fees or registration penalties due at the time of issuance of an Iowa salvage title, together with the current registration fees if not already paid, are to be paid upon issuance of a

regular title. However, a dealer is not required to pay current registration fees to obtain a regular title for a vehicle held for resale or trade. See rule 761—400.27(321,322) for any exceptions.

c. Notwithstanding any provision of this chapter to the contrary, an Iowa salvage title obtained by an insurer pursuant to the provisions under Iowa Code section 321.52(4) will be issued free and clear of all liens and claims of ownership, including any outstanding registration fees or registration penalties.

405.3(5) Plates. Registration plates shall not be assigned when an Iowa salvage title is issued.

405.3(6) Application. Application for an Iowa salvage title shall be made within 30 days after the date of assignment to the transferee.

761—405.4(321) Converting salvage title to regular title.

405.4(1) Rebuilt designation. When a person converts a salvage title to a regular title under Iowa Code section 321.52(4), a regular title and registration receipt issued will bear the designation “REBUILT-IA.”

405.4(2) Insurer’s certification. An insurer who has a title under Iowa Code section 321.52(4) may submit an insurer’s certification in lieu of a salvage theft examination certificate.

a. An acceptable insurer’s certification will:

(1) Include the name and address of the insurance company and the VIN, year and make of the salvage titled vehicle.

(2) Include a statement by the insurer certifying that the retail cost of repairs for all damages to the vehicle is less than \$3,000.

(3) Be dated and signed by an authorized representative of the insurer.

b. The insurer’s certification is not transferable if the insurer assigns the salvage title to another owner.

c. A regular title and registration receipt issued pursuant to this subrule is not required to have a designation of “REBUILT-IA.” However, rule 761—405.7(321) applies to carry forward any designation on the title and registration receipt.

761—405.5(321) Foreign vehicles.

405.5(1) Definitions. The following definitions apply to foreign titles and the designations shown on them.

“Junked” is any designation from a foreign jurisdiction that means the vehicle is damaged or dismantled and is prohibited from ever again being driven upon a highway.

“Rebuilt” means the vehicle had been designated or titled as salvage but had the designation removed or was subsequently issued a regular title, and the vehicle is permitted to be driven and moved upon a highway.

“Salvage” means the vehicle is designated or titled as salvage or the vehicle is damaged and shall not be registered to be driven or moved upon a highway until it is no longer designated or titled as salvage.

405.5(2) Foreign title with rebuilt designation. If the prior title for a vehicle is a foreign title indicating that the vehicle was rebuilt, the Iowa title and registration receipt issued will contain the designation of “rebuilt” together with the two-letter abbreviation of the name of the jurisdiction that issued the foreign title. However, if a records check indicates that the vehicle was previously titled in Iowa with a designation of “prior salvage,” the Iowa title and registration receipt issued shall contain the designation of “REBUILT-IA.” If a records check indicates that the vehicle was previously titled in Iowa with a designation of “REBUILT-IA,” the “REBUILT-IA” designation takes precedence and is to be carried forward to the Iowa title and registration receipt.

405.5(3) Converting foreign salvage title to Iowa title. If the prior title for a vehicle is a foreign title indicating that the vehicle is salvage, a regular Iowa title is not to be issued for the vehicle unless an Iowa salvage title is first issued. After an Iowa salvage title is issued for the vehicle, a regular Iowa title may be obtained pursuant to Iowa Code section 321.52(4) and rule 761—405.4(321). However, as provided in Iowa Code section 321.24(5), an owner who surrenders a foreign salvage title and obtains a

salvage theft examination pursuant to Iowa Code section 321.52(4) “b” within 30 days of the date the owner was assigned the foreign salvage title is not required to first obtain an Iowa salvage title.

405.5(4) *Salvage titled vehicle leaving and reentering Iowa.* If a vehicle leaves Iowa with an Iowa salvage title and reenters Iowa with a regular foreign title, a regular Iowa title may be issued without a salvage theft examination. The regular Iowa title and registration receipt issued from the foreign title will be designated:

a. With the word “rebuilt” plus the two-letter abbreviation of the name of the jurisdiction that converted the salvage designation to a regular title, even if the foreign title does not indicate that the vehicle was rebuilt.

b. As specified in subrule 405.5(2), if the foreign title indicates that the vehicle was rebuilt.

405.5(5) *Designation carried forward.* If a vehicle leaves Iowa with a regular Iowa title and reenters Iowa with a regular foreign title and if the foreign title does not indicate that the vehicle was rebuilt and if a records check indicates that the vehicle had a designation listed in paragraphs 405.7(1) “a” through “f,” that designation shall be carried forward to the Iowa title and registration receipt issued from the foreign title.

405.5(6) *Foreign title with flood, fire, vandalism or theft designation.* If the prior title for a vehicle is a foreign title indicating that the vehicle was damaged by flood, fire or vandalism or is a recovered stolen vehicle and another designation is not required under this rule or rule 761—405.7(321), the Iowa title and registration receipt issued from the foreign title shall contain, as applicable, the designation of “flood,” “fire,” “vandalism” or “theft.”

405.5(7) *Foreign title with a lemon buy-back designation.* See rule 761—405.7(321).

405.5(8) *Junking certificate.* For all vehicles subject to Iowa titling laws, an Iowa junking certificate is to be issued if either of the following applies:

a. The prior title for a vehicle is a foreign title indicating that the vehicle was junked, regardless of any other designation on the title, or

b. A records check for a vehicle with a foreign title indicates that the vehicle should have been or has been junked as defined in subrule 405.5(1).

761—405.6(321) Records check. Before a title is issued in Iowa, an electronic records check may be made pursuant to 28 CFR Section 25.54 (July 1, 2023). The purpose of the records check is to determine if the vehicle:

405.6(1) Has, ever had or should have had a “salvage,” “prior salvage,” “rebuilt,” “damage over 70 percent,” “flood,” “fire,” “vandalism,” “theft,” “lemon buy-back” or equivalent designation(s) on a previous title. If such a designation is or should have been on a previous title, the Iowa title to be issued shall contain the designation required by this chapter.

405.6(2) Is or was ever a wrecked or salvage vehicle as defined in Iowa Code section 321.52. If a vehicle is a wrecked or salvage vehicle, an Iowa salvage title shall be issued. If the vehicle was a wrecked or salvage vehicle, the Iowa title to be issued shall contain the appropriate designation required by this chapter.

405.6(3) Should have been or was ever junked as defined in subrule 405.5(1). If the vehicle should have been or was ever junked, an Iowa junking certificate shall be issued.

761—405.7(321,322G) Designations.

405.7(1) The following designations for a vehicle shall be used on Iowa titles and registration receipts and will be carried forward to all subsequent Iowa titles and registration receipts issued for the vehicle unless otherwise specified:

a. **REBUILT-IA.** This designation supersedes other designations. When a designation of “REBUILT-IA” is required pursuant to rule 761—405.4(321), it replaces any other designation.

b. *Rebuilt together with a two-letter abbreviation of the name of a foreign jurisdiction.* When this designation is required pursuant to subrule 405.5(2), it replaces any other designation except a “REBUILT-IA” designation.

c. Damage over 50 percent. The designation shall be used for applicable vehicle transfers and Iowa title and registration issuances occurring prior to July 1, 2021.

d. Damage over 70 percent. As required by Iowa Code section 321.69, a designation of “damage over 70 percent” shall be used when the seller or the buyer indicates on the damage disclosure statement that the person has knowledge that the motor vehicle sustained damage for which the cost of the repair exceeded 70 percent of the fair market value before the motor vehicle became damaged. This designation replaces any other designation except “rebuilt.”

e. Flood, fire, vandalism or theft. The most recent designation applies. Unless superseded by a “REBUILT-IA,” “rebuilt,” “damage over 50 percent” or “damage over 70 percent” designation, a designation of “flood,” “fire,” “vandalism” or “theft” shall be used as specified in subrule 405.5(6) and supersedes a “lemon buy-back” designation.

f. Lemon buy-back. Unless superseded by a “REBUILT-IA,” “rebuilt,” “damage over 50 percent,” “damage over 70 percent,” “flood,” “fire,” “vandalism” or “theft” designation, a designation of “lemon buy-back” shall be used:

(1) When a certificate of title is issued to a manufacturer of a motor vehicle pursuant to Iowa Code section 322G.12.

(2) When the prior certificate of title for a motor vehicle is a foreign title indicating that the vehicle was returned to the manufacturer pursuant to Iowa Code chapter 322G or a law of another state similar to Iowa Code chapter 322G.

405.7(2) An Iowa salvage title will be issued with a designation of “salvage” unless a designation listed in subrule 405.7(1) is required.

761—405.8(321) Salvage theft examination. Except for foreign salvage titles assigned to licensed new motor vehicle dealers, authorized vehicle recyclers or educational institutions, a salvage theft examination may only be conducted on a vehicle with an Iowa salvage title. The vehicle is not to be examined until it has been completely repaired, except for minor body parts such as trim, body marking or paint.

405.8(1) General procedure. In addition to requirements in Iowa Code section 321.52(4) “d,” the following procedures apply to salvage theft examinations:

a. An applicant may request a salvage theft examination by contacting an investigator of the department’s motor vehicle division by email at invbureau@iowadot.us, on the department’s website at www.iowadot.gov/biip or by contacting an Iowa local law enforcement agency.

b. The applicant is to bring the following documents to the inspection:

(1) The repair affidavit under Iowa Code section 321.52(4) “d,” which may be found on the department’s website and is to be submitted in an electronic format to the department or the Iowa local law enforcement agency.

(2) The permit authorized in Iowa Code section 321.52(4) “d” to operate the vehicle to and from the examination location, which must be printed and signed by the owner and kept in the vehicle to be considered valid.

(3) A bill of sale for all component parts replaced.

c. Payment for the salvage theft examination is to be made electronically and is due at the time the examination is scheduled. If the examination is not completed within three years from the date the affidavit and payment were submitted, a new fee is due.

d. The peace officer shall return to the owner upon completion of the examination the following: the salvage title or the certified copy of the salvage title, the permit to drive on the repair affidavit (if applicable) and the bills of sale.

405.8(2) Certificates. Upon completion of the examination, the salvage theft examination certificate will be completed electronically. However, if a peace officer finds it necessary to use a physical salvage theft examination certificate, the salvage theft examination certificate is to be a controlled form furnished by the department.

a. The owner of the vehicle may obtain a copy of the salvage theft examination certificate upon written request to the department.

b. The salvage theft examination certificate is not transferable to a different party or owner. These rules are intended to implement Iowa Code sections 321.1, 321.13, 321.24, 321.52, 321.69, 321H.2 and 322G.12 and 28 CFR Section 25.54.

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ARC 9013C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to persons with disabilities parking permits

The Transportation Department hereby rescinds Chapter 411, "Persons with Disabilities Parking Permits," 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," 321.16, 321L.2 and 321L.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 321L and section 321.16.

Purpose and Summary

This rulemaking repromulgates Chapter 411 in compliance with Executive Order 10. The purpose of Chapter 411 is to comply with Iowa Code chapter 321L outlining the procedures for eligible persons to obtain a permit to park in a location designated for persons with disabilities. The Iowa Code authorizes the Department to issue the following types of persons with disabilities parking permits: (1) persons with disabilities registration plates, (2) persons with disabilities parking stickers, and (3) persons with disabilities removable windshield placard. The chapter outlines the application and issuance procedures for eligible persons to obtain a persons with disabilities parking sticker or a persons with disabilities removable windshield placard. The requirements and procedures for applying for and obtaining a persons with disabilities registration plate are contained in Chapter 401.

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 8395C**. Two public hearings were held on the following date:

- 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 Department on February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 411 and adopt the following **new** chapter in lieu thereof:

CHAPTER 411
PERSONS WITH DISABILITIES PARKING PERMITS

761—411.1(321L) Definitions.

411.1(1) The definitions in Iowa Code section 321L.1 are hereby made part of and fully incorporated in this chapter.

“Health care provider” means a licensed medical professional listed in Iowa Code section 321L.2(1).

“Nonexpiring removable windshield placard” means a removable windshield placard issued on or before December 31, 2016, to a person with a lifelong disability.

“Organization” means an applicant that is a corporation, partnership, sole proprietorship, business trust, estate, trust, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity lawfully doing business in the state of Iowa that has a program for transporting persons with disabilities or elderly persons.

“Standard removable windshield placard” means a removable windshield placard issued on or after January 1, 2017, to a person with a lifelong disability.

“Statement of disability” means the communication originating from the applicant's health care provider as described in Iowa Code section 321L.2, which attests that the applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and, if applicable, identifies the period of time during which the applicant is expected to be disabled.

“Temporary removable windshield placard” means a removable windshield placard issued to a person with a statement of disability that indicates the disability is temporary.

411.1(2) Reserved.

This rule is intended to implement Iowa Code sections 321L.1 and 321L.2.

761—411.2(321L) Application for persons with disabilities parking permit.**411.2(1) General.**

a. A person seeking a persons with disabilities parking permit pursuant to Iowa Code section 321L.2 shall complete Form 411055 and include a statement of disability and any required supporting documentation. The applicant is to indicate which of the following permits the applicant is seeking:

- (1) Temporary removable windshield placard.
- (2) Standard removable windshield placard.

- (3) Persons with disabilities parking sticker.
- (4) Persons with disabilities special registration plates.

b. An applicant seeking persons with disabilities special registration plates must also submit an application as described in 761—subrule 401.2(3).

c. An organization seeking a persons with disabilities removable windshield placard shall complete Form 411355 and include the name of its authorized representative; the mailing address, telephone number, and signature of its authorized representative; and, if required to obtain one, the organization's federal employer identification number or federal tax identification number. An application made by an organization does not have to include a statement of disability.

d. An applicant who provides a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement of disability must also self-certify, under penalty of perjury, that the nature of the applicant's disability certified by the U.S. Department of Veterans Affairs is a lifelong disability that impairs the applicant's mobility to the extent defined in Iowa Code section 321L.1(8).

411.2(2) Application forms and submission.

a. Applications may be obtained by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; by telephone at 515.237.3110; by facsimile at 515.237.3056; by email at vscusto@iowadot.us; or on the department's website at www.iowadot.gov/mvd/vehicleregistration/persons-with-disabilities. Applications may also be obtained from a driver's license service center or county treasurer's office.

b. Completed applications are to be submitted by any method in paragraph 411.2(2) "a."

This rule is intended to implement Iowa Code sections 321L.1, 321L.2 and 321L.8.

761—411.3(321L) Removable windshield placards.

411.3(1) Nonexpiring removable windshield placards.

a. *Period of validity.* A nonexpiring removable windshield placard issued on or before December 31, 2016, remains valid until the occurrence of any condition set forth in Iowa Code section 321L.3(1), the procedure set forth in rule 761—411.6(321L), and as otherwise specified by statute or rule.

b. *Replacement.* A lost, stolen, or damaged nonexpiring removable windshield placard will be replaced with a standard removable windshield placard.

411.3(2) Standard removable windshield placards.

a. *Period of validity.* A standard removable windshield placard may be issued only to a person with a lifelong disability and is valid for a period of five years.

b. *Renewal.* A person who holds a valid standard removable windshield placard may renew the placard by submitting a new statement of disability indicating the applicant has a continuing need for the placard and a new persons with disabilities parking permit application pursuant to rule 761—411.2(321L).

411.3(3) Temporary removable windshield placards. A temporary removable windshield placard may be issued to the applicant if the applicant's statement of disability indicates the applicant's disability is temporary. An organization is not eligible to apply for a temporary removable windshield placard.

a. *Period of validity.* A temporary removable windshield placard shall be valid for the period of time indicated on the statement of disability, but not to exceed six months.

b. *Renewal.* A person who holds a valid temporary removable windshield placard may renew the placard by submitting a new statement of disability and a new persons with disabilities parking permit application pursuant to rule 761—411.2(321L).

411.3(4) Removable windshield placards for an organization. An organization may be issued a removable windshield placard. The placard shall bear the name of the organization and the signature of its authorized representative.

a. *Period of validity.* A removable windshield placard issued to an organization shall be valid for four years.

b. *Renewal.* The organization may renew a placard issued to it by submitting a new persons with disabilities parking permit application pursuant to rule 761—411.2(321L) provided the organization continues to provide the service for which the placard was issued. If at any time the organization ceases

providing the service for which the placard was issued, the organization shall immediately surrender the placard to the department.

411.3(5) *Display of placards.* A removable windshield placard displayed when the vehicle is parked in a persons with disabilities parking space as prescribed in Iowa Code section 321L.4 shall be displayed in a manner that allows the entire placard to be visible through the vehicle's windshield.

This rule is intended to implement Iowa Code sections 321L.1, 321L.2 and 321L.4.

761—411.4(321L) Persons with disabilities parking stickers.

411.4(1) *Eligibility.* A persons with disabilities parking sticker may be issued only to an eligible person under Iowa Code section 321L.2 with a lifelong disability. An organization is not eligible for a persons with disabilities parking sticker.

411.4(2) *Period of validity.* The special registration plate parking sticker is valid for such period of time that the registration for the vehicle remains valid.

411.4(3) *Display.* The special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate, as required by rule 761—400.53(321). A persons with disabilities parking sticker shall not be placed on persons with disabilities special plates issued under Iowa Code section 321.34(14).

This rule is intended to implement Iowa Code sections 321L.1, 321L.2 and 321L.4.

761—411.5(321L) Return of persons with disabilities parking permit. A persons with disabilities parking permit issued pursuant to this chapter and Iowa Code section 321L.2 shall be returned to the department, to a driver's license service center, or to any law enforcement office within ten days of an occurrence of any of the events set forth in Iowa Code section 321L.3(1) and in the manner prescribed in Iowa Code section 321L.3(3).

This rule is intended to implement Iowa Code section 321L.3.

761—411.6(17A,321,321L) Revocation of a persons with disabilities parking permit—service, appeal and stay.

411.6(1) *Revocation.* A person's or organization's persons with disabilities parking permit shall be revoked if the department determines it has been issued in conflict with the statutes or rules governing the permit's issuance.

411.6(2) *Service of notice.* Notice of revocation is served by first-class mail to the mailing address on the applicable application for a persons with disabilities parking permit. The department may prepare an affidavit of mailing verifying a notice was mailed by first-class mail using its records in conjunction with U.S. Postal Service records, and the affidavit may be attested to and certified in accordance with Iowa Code section 622.1.

411.6(3) *Appeal.* The person or organization 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 within ten days of the receipt of notice of revocation.

411.6(4) *Stay.* When the department receives a properly submitted, timely appeal request, the department shall stay the revocation pending resolution of the appeal.

This rule is intended to implement Iowa Code chapter 17A and sections 321.16, 321L.2 and 321L.4.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9014C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rulemaking related to abandoned vehicles**

The Transportation Department hereby rescinds Chapter 480, “Abandoned Vehicles,” 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 321.89.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.18, 321.71, 321.89 and 321.90.

Purpose and Summary

This rulemaking repromulgates Chapter 480 in compliance with Executive Order 10. Chapter 480 implements Iowa Code section 321.89, which authorizes the Department to adopt rules outlining the procedures to be followed when a police authority or private entity acting on behalf of a police authority disposes of an abandoned vehicle and seeks reimbursement from or seeks to remit unclaimed proceeds to the Department.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8396C**. Two public hearings were held on the following date:

- 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 Department on February 11, 2025.

Fiscal Impact

This rulemaking has a positive fiscal impact to the State of Iowa of approximately \$115,000 annually, which represents the net amount of excess funds received from abandoned vehicle disposals, which is deposited into the Road Use Tax Fund.

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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 480 and adopt the following **new** chapter in lieu thereof:

CHAPTER 480
ABANDONED VEHICLES

761—480.1(321) Definitions. The definitions in Iowa Code sections 321.1 and 321.89(1) apply to this chapter. In addition:

“*Abandoned vehicle*,” when used in Iowa Code section 321.89 and this chapter, means only those vehicles subject to registration as referred to in Iowa Code section 321.18.

“*Bidder registry*” means a record of all persons who have registered to bid at a public auction.

“*Public auction*,” when used in Iowa Code section 321.89, means an auction open to the general public.

761—480.2(321) Information. Information, forms and instructions are available from: Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278 or the department's website at www.iowadot.gov/mvd/vehicleregistration/abandoned-vehicles.

761—480.3(321) General provisions.

480.3(1) If a police authority has designated a private entity to process an abandoned vehicle, the police authority shall provide to the private entity a certificate of disposal form prescribed by the department. On the form, the police authority shall provide a description of the vehicle and list the name and address of the last registered owner, all known lienholders of record, and any other known claimants to the vehicle.

480.3(2) A police authority or private entity processing an abandoned vehicle shall maintain records for three years from the sale at a public auction or transfer of a motor vehicle to a demolisher. The records are to be open to inspection by any peace officer or any employee of the department. The required documents to be made available for inspection include:

- a. The motor vehicle record request results letter issued by the department with lien information or evidence that a motor vehicle record was reviewed for owners and liens through other legal means.
- b. The impound report with the date of abandonment.
- c. One copy of the dated notice sent by the police authority or private entity to each owner and lienholder or proof of publication of notice with the publication date visible.
- d. One copy of an actual newspaper page advertising each public auction with advertisement and date visible.
- e. A copy of the certificate of disposal for the private entity.
- f. The bidder registry for the police authority or private entity designated by a police authority holding a public auction.
- g. A copy of affidavit of sale on a form prescribed by the department.

480.3(3) A police authority or private entity shall verify that the provisions of this chapter have been executed, prior to the sale of the abandoned vehicle, on a form prescribed by the department.

480.3(4) A purchaser in good faith of a motor vehicle sold as a result of the abandoned vehicle process takes the motor vehicle free of all rights of all persons, including holders of preexisting liens, notwithstanding any police authority or private entity's noncompliance with this chapter.

480.3(5) Upon presentation of a sales receipt, a county official shall process the registration and issuance of title to the purchaser free of all rights of all persons, including holders of preexisting liens, notwithstanding any police authority or private entity's noncompliance with this chapter.

761—480.4(321) Auction requirements.

480.4(1) Auction. A public auction may be by electronic means, by sealed bid, or a conventional oral auction. The highest bidder is awarded the property. When the auction is a conventional oral auction, bidders shall register and bring the bid deposit with them to the auction on the day and at the location and time specified for the sale, if a bid deposit is required. Bidders bid against one another until bidding stops.

a. A police authority or a private entity designated by a police authority holding a public auction may set the initial bid at an amount that equals the actual cost of storage and towing.

b. A police authority or private entity is limited to two attempts at selling an abandoned vehicle at a public auction. If the police authority or private entity cannot make a satisfactory sale at two public auctions, or if a sale cannot otherwise be made with enough proceeds to cover the expenses and costs in carrying out the abandoned vehicle process, the police authority or private entity shall sell or dispose of the vehicle to a demolisher for junk.

480.4(2) Advertisement. Any attempt to sell a vehicle by public auction shall be advertised at least seven days in advance using two or more modes of appropriate media widely accessible and targeted to individuals within the county where the auction will take place or where the vehicle is physically located. Appropriate media modes include the following:

a. A newspaper that meets the requirements set forth in Iowa Code section 618.3.

b. Notice posted in a conspicuous manner viewable to the public at the location where the public auction will occur or in a location where it is permissible to post community announcements. If the public auction is to be conducted by electronic means, the location means the specific website to be used for the auction.

c. Notice posted to a community website or on a social media platform available to the public.

480.4(3) Bidder registry. Each auctioned vehicle sold or offered for sale at a public auction requires a bidder registry. The bidder registry shall be maintained for at least three years by the police authority or private entity designated by a police authority and open for inspection by any peace officer or department employee. The bidder registry shall contain:

a. The full name of the bidder.

b. The bona fide address of the bidder.

c. A telephone number of the bidder.

d. The date of the auction.

e. The auctioned vehicle's make, model, model year, and vehicle identification number.

f. The location of the auction.

480.4(4) Odometer statement.

a. When an odometer disclosure statement is required pursuant to Iowa Code section 321.71 but the auctioned vehicle's seller cannot attest to the true mileage reading of the vehicle's odometer, the seller's odometer disclosure statement shall:

(1) Reflect the odometer mileage reading at the time of sale.

(2) Be marked indicating "odometer discrepancy," certifying the odometer mileage reading is not the actual mileage.

b. The subsequent title issued for the vehicle shall record the vehicle's mileage is "not actual."

761—480.5(321) Claims procedure—expense reimbursement and unclaimed proceeds.

480.5(1) General. The following requirements are applicable to a claim under this subrule:

- a.* A police authority may only report an abandoned vehicle to the department if it is remitting unclaimed profits or requesting reimbursement.
- b.* A private entity designated by a police authority to process an abandoned vehicle may request reimbursement of expenses that are in excess of the proceeds of the sale of the abandoned vehicle.
- c.* If a police authority has designated a private entity to process an abandoned vehicle, the police authority is eligible for reimbursement of only the towing expense.
- d.* A police authority or private entity requesting reimbursement is to submit Form 411090 (Abandoned Vehicle Report) to the department. Other forms may be accepted if they contain all information deemed necessary by the department.
- e.* Form 411090 is also required when remitting unclaimed profits.
- f.* The only reimbursable expense includes losses incurred in disposing of a vehicle abandoned on a public highway.

480.5(2) Documentation. Form 411090 submitted for expense reimbursement or for remittance of unclaimed proceeds must be accompanied by the following:

- a.* The police authority's impound report showing the date the vehicle was taken into custody, including a complete description of the vehicle. The date of abandonment is the date the vehicle was taken into custody unless the police authority declares a different date of abandonment. The abandonment date shall be used to calculate the 20-day notification required under Iowa Code section 321.89(3).
- b.* A copy of the notice sent to the owner and lienholder(s) or proof of publication of notice. The notice must display a sent or published date within the 20-day time frame required under Iowa Code section 321.89(3) to qualify the claim for reimbursement.
- c.* A completed certificate of disposal.
- d.* Detailed receipts showing payment for each expense incurred. A receipt must identify the date(s) of occurrence of the expense; for example, a receipt for storage must identify the beginning and ending dates. A receipt for both towing and storage must show separately the towing charge and the storage charge per day.

480.5(3) Time frames. Claims for allowable reimbursement expenses under Iowa Code section 321.89 must be submitted to the department within 90 days after the sale or disposal of the abandoned vehicle. The police authority shall send unclaimed proceeds from the sale or disposal of the vehicle to the department within 10 days after the specified 90-day claiming period expires.

480.5(4) Rates. The department establishes the following maximum expense reimbursement rates:

- a.* Towing—\$50 per vehicle.
 - b.* Notice—actual postage or publication cost.
 - c.* Storage—\$5 per day, not to exceed 45 days per vehicle.
- (1) If a police authority provides its own storage facility for abandoned vehicles, the department shall not reimburse the police authority for use of that facility.
 - (2) When the vehicle is held for an evidentiary hearing for more than 45 days, the police authority or private entity shall submit proof of the evidentiary hearing to obtain reimbursement.
- d.* Advertising—only actual costs of up to \$20 per auction, or advertising receipt totals for two auctions, whichever is less, not to exceed \$40 total.
 - e.* Auction expenses—10 percent of the vehicle's sale price or \$10 per vehicle, whichever is less. A receipt is not required for auction expense reimbursement.

These rules are intended to implement Iowa Code sections 321.1, 321.18, 321.71, 321.89 and 321.90.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/19/25.

ARC 9015C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rulemaking related to motorized bicycle rider education**

The Transportation Department hereby rescinds Chapter 636, “Motorized Bicycle Rider Education,” 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 307.12(1)“j.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)“j” and 321.189.

Purpose and Summary

This rulemaking repromulgates Chapter 636 in compliance with Executive Order 10. Chapter 636 complies with Iowa Code section 321.189(7) by outlining the application, renewal, and eligibility requirements for motorized bicycle (moped) rider education programs, sponsors, and instructors in the state.

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 8397C**. Two public hearings were held on the following date:

- December 20, 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 February 11, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 636 and adopt the following **new** chapter in lieu thereof:

CHAPTER 636
MOTORIZED BICYCLE RIDER EDUCATION

761—636.1(307,321) Information and location. Applications, forms and information regarding 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 515.244.8725; or by facsimile at 515.239.1837.

761—636.2(307,321) Definitions.

“Approved course” means the motorized bicycle rider education course approved by the department.

“Instructor” means a person approved by the department to instruct a motorized bicycle rider education course.

“Program approval” means department approval of an entity’s motorized bicycle rider education course and instructors.

“Sponsor” means an entity that delivers the approved course.

761—636.3(307,321) Application, renewal and fees.

636.3(1) *Application and renewal.*

a. Any sponsor must apply to the department for program approval in a manner determined by the department prior to the beginning of the first class offered in the approved course and annually thereafter. An instructor of an approved course must be listed on the application and approved by the department.

b. Program approval is valid for a calendar year or remainder of a calendar year and expires on December 31 but remains valid for an additional 30 days after the expiration date.

c. Unless otherwise approved by the department, an application for renewal is due to the department within 60 days of the expiration date.

636.3(2) Fees. The initial application and annual renewal fee are \$25 for a private or a commercial sponsor. The fee is to be paid in a manner approved by the department.

761—636.4(307,321) Course requirements.

636.4(1) *Classroom instruction.* The course approved by the department must include a minimum of six clock hours of classroom instruction that includes the instructional components contained in subrule 636.4(3).

636.4(2) *Driving instruction.* Motorized bicycle rider driving experiences in addition to classroom instruction are permissible but not required.

636.4(3) *Course content.* Every motorized bicycle rider education course must include the following instructional components:

a. *Operator and motorized bicycle preparation.*

- (1) Knowledge of Iowa driving laws.
- (2) Knowledge of vehicle registration requirements.
- (3) Vehicle inspection.
- (4) Protective clothing and devices.
- (5) Risk assessment.
- (6) Route selection.

b. *Basic control skills.*

- (1) Starting procedures.
- (2) Speed control.
- (3) Turning.
- (4) Stopping.
- c. *Safe driving practices.*
 - (1) Use of lights and warning devices.
 - (2) Signaling.
 - (3) Maintaining directional control.
 - (4) Perception skills and observation.
 - (5) Use of mirrors.
 - (6) Recognition of hazards.
 - (7) Speed control.
 - (8) Lane positioning.
 - (9) Concerns and conflicts regarding intersections.
 - (10) Following distances.
 - (11) Lateral separation.
- d. *Complex situations.*
 - (1) Limited visibility.
 - (2) Adverse weather.
 - (3) Critical situations.
 - (4) Malfunctions.
- e. *Motorized bicycle care.*
 - (1) Inspection.
 - (2) Maintenance.

636.4(4) Evaluation. Each student shall be evaluated by the instructor to determine successful completion of the course.

761—636.5(307,321) Instructor qualifications. To qualify as an instructor of an approved course, an individual must:

636.5(1) Possess a valid driver's license allowing unaccompanied driving other than a temporary restricted license and be able to operate a motorized bicycle.

636.5(2) Have a clear driving record for the previous two years. A clear driving record means the instructor has:

- a. Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).
- b. No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.
- c. Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.
- d. No record of a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.
- e. No record of a law enforcement investigative report indicating two or more contributive motor vehicle accidents in a two-year period.

761—636.6(307,321) Cancellation or denial.

636.6(1) Cancellation. The department shall cancel program approval if the sponsor or instructor fails to comply with the applicable provisions of this chapter or if the course or instructors are no longer approved. However, an approved program that meets the applicable provisions of this chapter except for an approved instructor may retain program approval if the department approves an alternate instructor.

636.6(2) Denial. The department shall deny an initial or renewal application if the applicant does not meet the criteria for approval under this chapter.

These rules are intended to implement Iowa Code sections 307.12(1)“j” and 321.189.

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ARC 9045C

UTILITIES COMMISSION[199]

Adopted and Filed

Rulemaking related to Iowa electrical safety code

The Utilities Commission hereby rescinds Chapter 25, "Iowa Electrical Safety 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 sections 476.1, 476.1B, 476.2, 476A.12, 478.19 and 478.20.

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 as part of its Executive Order 10 review. The rulemaking promulgates the standards that the Commission requires utilities to follow to maintain safe electrical infrastructure within the state of Iowa.

On February 6, 2025, the Commission issued an order adopting amendments. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0025.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 21, 2024, as **ARC 8200C**. A public hearing was held on the following date(s):

- October 1, 2024
- October 15, 2024

The public hearings were attended by the Officer of Consumer Advocate (OCA), a division of the Iowa Department of Justice; MidAmerican Energy Company; Interstate Power and Light Company; and ITC Midwest LLC (ITC). At the hearings, ITC requested additional clarification on the requirement for accident reports in paragraph 25.5(2)"d." Attending stakeholders agreed to replacement language for that lettered paragraph to provide greater clarity, and the Commission made that change.

OCA filed a written comment in support of the Notice version of Chapter 25. The Commission also received a written comment from a member of the public, requesting the Commission add language to (1) establish a maximum length of time an overhead line can be in service, (2) adjust the inspection cycle for overhead lines, (3) establish a mandatory investigation performed by the Commission or the State Fire Marshal in situations in which a fallen power line causes personal injury or property damage, and (4) change the tariff provisions regarding liability insurance requirements. For a variety of reasons set forth in its February 6, 2025, order, the Commission declined to make those changes in this rulemaking governed by Executive Order 10.

Due to comments received and stakeholder discussions occurring at the public hearings, the Commission modified the language in lettered paragraph 25.5(2)"d" to clarify when notification must be made to the Commission due to electric lines being taken out of service due to physical contact with the electrical lines.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on February 6, 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 April 23, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 25 and adopt the following new chapter in lieu thereof:

CHAPTER 25
IOWA ELECTRICAL SAFETY CODE

199—25.1(476,476A,478) General information.

25.1(1) Authority. The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities commission pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

25.1(2) Purpose. The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and supersede all conflicting rules of any such utility. In no way does this rule relieve any utility from any of its duties under the laws of this state.

25.1(3) Definition of utility. For the purpose of this chapter, a utility is any owner or operator of electric or communications facilities subject to the safety jurisdiction of the commission.

199—25.2(476,476A,478) Iowa electrical safety code defined. The standard minimum requirements for the installation and maintenance of electric substations, generating stations, and overhead and underground electric supply or communications lines adopted below, collectively constitute the “Iowa Electrical Safety Code.”

25.2(1) National Electrical Safety Code. The American National Standards Institute (ANSI) C2-2023, “National Electrical Safety Code” (NESC), as published on August 1, 2022, including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for

Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the commission.

25.2(2) *Modifications and qualifications to the NESC.* The standards set forth in the NESC are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code. NESC 013A2 is modified to read as follows: “Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

- “1. Qualified supervision is provided,
- “2. Equivalent safety is provided,
- “3. On joint-use facilities, all joint users are notified in a timely manner, and
- “4. Prior approval is obtained from the Iowa utilities commission.”

b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 that are greater than otherwise required by these rules, the statutory clearances prevail.

(2) The following clearances apply to all lines regardless of date of construction: NESC 232, vertical clearances for “Water areas not suitable for sailboating or where sailboating is prohibited,” “Water areas suitable for sailboating . . .,” and “Established boat ramps and associated rigging areas . . .”; and NESC 234E, “Clearance of Wires, Conductors, Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement.”

(3) Table 232-1, Footnote 21, is changed to read: “Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used.”

(4) Except for clearances near grain bins, for measurements made under field conditions, the commission will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2017 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2017 editions of the NESC.)

c. Rule 217C1 is changed to read: “The ground end of at least one guy per anchor shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Noncomplying guy markers shall be replaced as part of the utility’s inspection and maintenance plan.”

d. There is added to Rule 381G: “(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent ‘Warning’ or other appropriate sign of highly visible color, warning of hazardous voltage and including the name of the utility. This rule applies to all signs placed or replaced after June 18, 2003.”

e. There is added to the first paragraph of Rule 110A1, after the sentence stating, “Entrances not under observation of an authorized attendant shall be kept locked,” the following sentences: “Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and latched or fastened if there is a gate-latching mechanism.”

f. Lines crossing railroad tracks will comply with the additional requirements of rule 199—42.6(476), “Engineering standards for electric and communications lines.”

25.2(3) *Grain bins.*

a. Electric utilities shall conduct or participate in annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line that does not provide the clearances required by the ANSI C2-2023 “National Electrical Safety Code,” Rule 234F. This paragraph applies only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

25.2(4) *General rules.*

a. Joint-use construction. Where it is mutually agreeable between an electric utility and a communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

b. Lines. In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load that it carries. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electric supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

25.2(5) Other references adopted.

a. The “National Electrical Code,” ANSI/NFPA 70-2023, as published on December 7, 2022, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in rule 661—504.1(103).

b. “The Lineman’s and Cableman’s Handbook,” Fourteenth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the “National Electrical Safety Code” or “National Electrical Code,” and for developing the inspection and maintenance plans required by rule 199—25.3(476,478).

199—25.3(476,478) Inspection and maintenance plans.

25.3(1) Filing of plan. Each electric utility shall adopt and file with the commission a written plan for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

25.3(2) Annual report. Each investor-owned, rate-regulated utility shall include as part of its annual report to the commission, as required by 199—Chapter 23, certification of compliance with each area of the inspection and maintenance plan required by subrule 25.3(1) or a detailed statement on areas of noncompliance.

25.3(3) Contents of plan. The inspection plan shall include the following elements:

a. General. A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. Inspection of lines, poles, and substations.

(1) Inspection schedules. The plan shall contain a schedule for the periodic inspection of the various units of the utility’s electric plant. The period between inspections shall be based on accepted good practice in the industry, but for lines and substations, the period shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

(2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

(4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. Tree trimming or vegetation management plan.

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations.

(2) Procedures. The plan shall include written procedures for vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities. Where tree trimming is employed, practices shall be adopted that will protect the health of the tree and reduce undesirable regrowth patterns.

d. Pole inspections. Pole inspections shall periodically include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

25.3(4) Records. Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action in the inspection and maintenance plan cycle is completed or until all necessary repairs and maintenance are completed, whichever is longer.

25.3(5) Guidelines. Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, as approved on September 23, 2016; 1730B-121, as approved August 13, 2013; and 1724E-300, as approved June 7, 2001; and "The Lineman's and Cableman's Handbook" are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2017, "Pruning," as published April 2017, and Section 35 of "The Lineman's and Cableman's Handbook" are suggested as guides for tree trimming practices.

199—25.4(476,478) Correction of problems found during inspections and pole attachment procedures.

25.4(1) Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly. In addition to the general requirements stated in this subrule, pole attachments shall comply with the specific requirements and procedures established in subrule 25.4(2).

25.4(2) To ensure the safety of pole attachments to poles owned by utilities in Iowa, this subrule establishes requirements for attaching electric lines, communications lines, cable systems, video service lines, data lines, wireless antennae and other wireless facilities, or similar lines and facilities that are attached to the excess space on poles owned by utilities.

a. Definitions. The following definitions apply to this rule.

"Pole" means any pole owned by a utility that carries electric lines, communications lines, cable systems, video service lines, data service lines, wireless antennae or other wireless facilities, or similar lines and facilities.

"Pole attachment" means any electric line, communication circuit, cable system, video service line, data service line, antenna and other associated wireless equipment, or similar lines and facilities attached

to a pole or other supporting structure subject to the safety jurisdiction of the commission pursuant to the Iowa electrical safety code, rule 199—25.2(476,476A,478).

“Pole occupant” means any electric utility, telecommunications carrier, cable system provider, video service provider, data service provider, wireless service provider, or similar person or entity that constructs, operates, or maintains pole attachments as defined in this chapter.

“Pole owner” means a utility that owns poles subject to the safety jurisdiction of the commission pursuant to the Iowa electrical safety code, rule 199—25.2(476,476A,478).

b. *Compliance with Iowa electrical safety code.* Pole attachments to poles shall be constructed, installed, operated, and maintained in compliance with the Iowa electrical safety code, rule 199—25.2(476,476A,478), and the requirements and procedures established in this subrule.

c. *Requests for access to poles; exceptions for service drops and overlashing.*

(1) A pole owner shall provide nondiscriminatory access to poles it owns, to the extent required by federal or state law. Requests for access to poles by an electric utility, telecommunications carrier, cable system operator, video service provider, data service provider, wireless service provider, or similar person or entity shall be made in writing or by any method as may be agreed upon by the pole owner and the person or entity requesting access to the pole. If access is denied, the pole owner shall explain in detail the specific reason for denial and how the denial relates to reasons of lack of capacity, safety, reliability, or engineering standards.

(2) Service drops are not subject to the notice and approval requirements in subparagraph 25.4(2)“c”(1). Instead, pole occupants shall provide notice to pole owners within 30 days of the installation of a new service drop unless the pole occupant and pole owner have negotiated a different notification requirement.

(3) Overlashing of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2)“c”(1). Pole occupants shall provide notice to pole owners of proposed overlashing at least seven days prior to installation of the overlashing unless the pole occupant and pole owner have negotiated a different notification requirement.

d. *Notification of violation.* A pole owner shall notify in writing a pole occupant of an alleged violation of the Iowa electrical safety code by a pole attachment owned by the pole occupant or may provide notice by another method as may be agreed upon by the parties to a pole attachment agreement. The notice shall include the address and pole location where the alleged violation occurred, a description of the alleged violation, and suggested corrective action.

e. *Corrective action.*

(1) Upon receipt of notification from a pole owner that the pole occupant has one or more pole attachments in violation of the Iowa electrical safety code, the pole occupant shall respond to the pole owner within 60 days in writing or by another method as may be agreed upon by the pole occupant and the pole owner. The response shall provide a plan for corrective action, state that the violation has been corrected, indicate that the pole attachment is owned by a different pole occupant, or indicate that the pole occupant disputes that a violation has occurred. The violation shall be corrected within 180 days of the date notification is received unless good cause is shown for any delay in taking corrective action. A disagreement that a violation has occurred, a claim that correction is not possible within the specific time frames due to events beyond the control of the pole occupant, or a claim that a different pole occupant is responsible for the alleged violation will be considered good cause to extend the time for taking corrective action. The pole occupant and pole owner may also agree to an extension of the time for taking corrective action. The pole owner and pole occupant shall cooperate in determining the cause of a violation and an efficient and cost-effective method of correcting a violation.

(2) If the violation could reasonably be expected to endanger life or property, the pole occupant shall take the necessary action to correct, disconnect, or isolate the problem immediately upon notification. If immediate corrective action is not taken by the pole occupant for a violation that could reasonably be expected to endanger life or property, the pole owner may take the necessary corrective action and the pole occupant shall reimburse the pole owner for the actual cost of any corrective measures. If the pole owner is later determined to have caused the violation and the pole occupant has taken corrective action, the pole owner shall reimburse the pole occupant for the actual cost of the

corrective action. Disputes concerning the ownership of the pole attachment should be resolved as quickly as possible.

f. Negotiated resolution of disputes. Parties to disputes over alleged violations of the Iowa electrical safety code, the cause of a violation, the pole occupant responsible for the violation, the cost-effective corrective action, or any other dispute regarding the provisions of subrule 25.4(2) shall attempt to resolve disputes through good-faith negotiations. Parties may file an informal complaint with the commission pursuant to 199—Chapter 6 as part of negotiations.

g. Complaints. Complaints concerning the requirements or procedures established in subrule 25.4(2), including alleged violations of the Iowa electrical safety code, may be filed with the commission by pole owners or pole occupants pursuant to the complaint procedures in 199—Chapter 6.

h. Civil penalties. Persons found to have violated the provisions of subrule 25.4(2) may be subject to civil penalties pursuant to Iowa Code section 476.51 or to other action by the commission.

199—25.5(476,478) Accident reports. This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the commission under this chapter.

25.5(1) All owners and operators of electrical facilities subject to the safety jurisdiction of the commission shall provide the commission with a 24-hour contact number where the commission can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

25.5(2) All owners and operators of electrical facilities subject to the safety jurisdiction of the commission shall notify the commission of any incident or accident involving contact with energized electrical facilities that meets one or more of the following conditions:

- a.* An employee or other person coming in contact with energized electrical facilities that results in death or personal injury necessitating in-patient hospitalization.
- b.* Estimated property damage of \$25,000 or more to the property of the utility and others.
- c.* Any other incident considered significant by the company.
- d.* Any electrical lines being taken out of service for longer than 12 hours due to physical contact with the electrical lines.

25.5(3) The commission shall be notified immediately, or as soon as practical thereafter, by email to the commission duty officer at dutyofficer@iuc.iowa.gov or, if email service is not available, by calling 515.745.2332. The person contacting the commission shall leave a telephone number of a person who can provide the following information:

- a.* The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b.* The location of the incident.
- c.* The time of the incident.
- d.* The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.
- e.* Initial estimate of damages.
- f.* A summary of the significant information available regarding the probable cause of the incident and extent of damages.

g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the commission. The report shall include the information required for notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the commission.

These rules are intended to implement Iowa Code chapter 478.

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