



# IOWA ADMINISTRATIVE BULLETIN

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## CONTENTS IN THIS ISSUE

Pages 2113 to 2188 include **ARC 3045C** to **ARC 3063C**

### ALL AGENCIES

Agency identification numbers .....	2111
Citation of administrative rules .....	2107
Schedule for rule making .....	2108

### CHILD ADVOCACY BOARD[489]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Filed, Purpose and function, ch 1 <b>ARC 3054C</b> ...	2160
Filed, Rules and operation, ch 2 <b>ARC 3055C</b> ...	2161

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Notice, PK-3, elementary education, multioccupations, career and technical education (CTE) endorsements; paraeducator area of concentration—autism spectrum disorders, amendments to chs 13, 24 <b>ARC 3047C</b> .....	2113
--	------

### HOMELAND SECURITY AND EMERGENCY

#### MANAGEMENT DEPARTMENT[605]

Filed, Agencies responsible for implementation of disaster-related assistance, 1.3 to 1.5 <b>ARC 3056C</b> .....	2163
--	------

### HUMAN SERVICES DEPARTMENT[441]

Filed, Autism support program eligibility; crisis response service provider accreditation standards for organizational activities and staff, 22.1, 24.23, 24.24 <b>ARC 3057C</b> .....	2164
Filed, Emergency assistance, amendments to ch 58 <b>ARC 3058C</b> .....	2166

### INSPECTIONS AND APPEALS

#### DEPARTMENT[481]

Notice, Food and consumer safety, amendments to ch 30 <b>ARC 3052C</b> .....	2118
Notice, Food establishment and food processing plant inspections, amendments to ch 31 <b>ARC 3053C</b> .....	2121
Notice, Home bakeries, amendments to ch 34 <b>ARC 3051C</b> .....	2129
Notice, Social gambling, rescind ch 102 <b>ARC 3048C</b> .....	2130
Notice, Amusement devices, amendments to chs 104,105 <b>ARC 3050C</b> .....	2130
Notice, Game nights, rescind ch 107 <b>ARC 3049C</b> .....	2135

### LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Filed, Construction contractor registration, 150.4, 150.6(3) <b>ARC 3059C</b> .....	2173
--	------

### NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Filed, Waterfowl, coot and dove hunting; falconry, amendments to chs 91, 97, 102 <b>ARC 3060C</b> .....	2174
---	------

### NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Licensure; continuing education, 3.5, 3.7, ch 5 <b>ARC 3046C</b> .....	2136
---	------

**PUBLIC HEALTH DEPARTMENT[641]**

Filed, Plumbing and mechanical systems professionals—license application, examination, licensure, continuing education, fees, amendments to chs 23, 27 to 30 **ARC 3061C** ..... 2178

Filed, State plumbing code—update of references to 2015 edition of Uniform Plumbing Code, 25.1, 25.4 **ARC 3062C** ..... 2185

**PUBLIC HEARINGS**

Summarized list ..... 2109

**TRANSPORTATION DEPARTMENT[761]**

Notice, Special permits for operation and movement of vehicles and loads of excess size and weight; compacted rubbish vehicle permits, amend ch 511; rescind ch 513 **ARC 3045C**..... 2146

**USURY**

Notice ..... 2158

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Access to affiliate records, requirements for annual filings, and asset and service transfers, amendments to ch 31 **ARC 3063C** ..... 2187

## PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

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### CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

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

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

## Schedule for Rule Making 2017

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
25	Wednesday, May 17, 2017	June 7, 2017
26	Friday, June 2, 2017	June 21, 2017
1	Friday, June 16, 2017	July 5, 2017

**PLEASE NOTE:**

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

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

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

**EDUCATIONAL EXAMINERS BOARD[282]**

PK-3, elementary education, multioccupations, career and technical education (CTE) endorsements; paraeducator area of concentration—autism spectrum disorders, amendments to chs 13, 24 IAB 5/10/17 <b>ARC 3047C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	May 31, 2017 1 p.m.
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**EDUCATION DEPARTMENT[281]**

Open enrollment—method of finance, special education students, 17.10, 17.11 IAB 4/26/17 <b>ARC 3031C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	May 16, 2017 11 a.m. to 12 noon
Administrative advancement and recruitment program, rescind ch 94 IAB 4/26/17 <b>ARC 3030C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	May 16, 2017 10 to 11 a.m.

**INSURANCE DIVISION[191]**

Synthetic guaranteed investment contracts, 96.3, 96.4, 96.5(2)“a,” 96.10 IAB 4/26/17 <b>ARC 3032C</b>	Conference Rm. 4 North, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	May 17, 2017 1:30 p.m.
Internal audit function requirement, amendments to ch 98 IAB 4/26/17 <b>ARC 3033C</b>	Conference Rm. 4 North, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	May 17, 2017 2:30 p.m.

**LABOR SERVICES DIVISION[875]**

Federal occupational safety and health standards—adoption by reference, 10.20, 26.1 IAB 4/26/17 <b>ARC 3029C</b>	150 Des Moines St. Des Moines, Iowa	May 17, 2017 10 a.m. (If requested)
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**NURSING BOARD[655]**

Licensure; continuing education, 3.5, 3.7, ch 5 IAB 5/10/17 <b>ARC 3046C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	May 30, 2017 8:30 to 10:30 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Real property acquisition and relocation assistance—adoption by reference of section II of uniform manual, 111.1 IAB 4/26/17 <b>ARC 3035C</b>	Third Floor Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	May 18, 2017 10 a.m. (If requested)
Special permits for vehicles and loads of excess size and weight; compacted rubbish vehicle permits, amend ch 511; rescind ch 513 IAB 5/10/17 <b>ARC 3045C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	June 1, 2017 10 a.m. (If requested)

**TRANSPORTATION DEPARTMENT[761](cont'd)**

Public transit system funding,  
amendments to chs 920, 921,  
924  
IAB 4/26/17 **ARC 3034C**

South Conference Room, First Floor  
Administration Bldg.  
800 Lincoln Way  
Ames, Iowa

May 19, 2017  
10 a.m.  
(If requested)

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation and Water Quality Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]  
OMBUDSMAN[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
EARLY CHILDHOOD IOWA STATE BOARD[249]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]  
    Status of African-Americans, Division on the[434]

Status of Women Division[435]  
Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
Employment Appeal Board[486]  
Child Advocacy Board[489]  
Racing and Gaming Commission[491]  
State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
Appeal Board, State[543]  
City Finance Committee[545]  
County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
Energy and Geological Resources Division[565]  
Environmental Protection Commission[567]  
Natural Resource Commission[571]  
Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
Military Division[611]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
Professional Licensure Division[645]  
Dental Board[650]  
Medicine Board[653]  
Nursing Board[655]  
Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
Labor Services Division[875]  
Workers' Compensation Division[876]  
Workforce Development Board and Workforce Development Center Administration Division[877]

## ARC 3047C

## EDUCATIONAL EXAMINERS BOARD[282]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

As part of the Board’s annual review of endorsement requirements, endorsement review committees were formed whose members included current teachers, administrators, education stakeholder groups, and the Iowa Department of Education. Changes recommended by the review committees are proposed by the Board in the following amendments:

1. Rescind the rules for the PK-3 endorsement that has since been updated and replaced.
2. Revise the elementary education endorsement to reflect recent legislation to address the need for increased teacher preparation regarding reading difficulties including dyslexia.
3. Revise the multioccupations endorsement to make it more attainable for current teachers.
4. Create a new career and technical education (CTE) technology endorsement to reflect the Board’s desire to recognize specified technology courses as part of a comprehensive CTE program and to have highly qualified instructors teaching the courses moving forward. The proposed amendments also align with the CTE redesign outlined in 2016 Iowa Acts, House File 2392, specifically to align secondary CTE offerings to in-demand occupations to meet the needs of employers. The CTE technology endorsement will also support the Future Ready Iowa initiative outlined by Governor Branstad and Lt. Governor Reynolds last fall.
5. Create a new autism spectrum paraeducator certificate.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, June 2, 2017. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 31, 2017, at 1 p.m. in Room 3SW, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 1. Amend rule 282—13.26(272) as follows:

**282—13.26(272) Requirements for elementary endorsements.**

**13.26(1) and 13.26(2)** No change.

**13.26(3) Teacher—prekindergarten through grade three, including special education.**

*a.—Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three.

*b.—Content.*

(1) Child growth and development.

1.—Understand the nature of child growth and development for infants and toddlers (birth through age 2), preprimary (age 3 through age 5) and primary school children (age 6 through age 8), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, aesthetics, and adaptive behavior.

2.—Understand individual differences in development and learning including risk factors, developmental variations and developmental patterns of specific disabilities and special abilities.

3.—Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity influences development and learning.

(2) Developmentally appropriate learning environment and curriculum implementation.

1.—Establish learning environments with social support, from the teacher and from other students, for all children to meet their optimal potential, with a climate characterized by mutual respect, encouraging and valuing the efforts of all regardless of proficiency.

2.—Appropriately use informal and formal assessment to monitor development of children and to plan and evaluate curriculum and teaching practices to meet individual needs of children and families.

3.—Plan, implement, and continuously evaluate developmentally and individually appropriate curriculum goals, content, and teaching practices for infants, toddlers, preprimary and primary children based on the needs and interests of individual children, their families and community.

4.—Use both child-initiated and teacher-directed instructional methods, including strategies such as small and large group projects, unstructured and structured play, systematic instruction, group discussion and cooperative decision-making.

5.—Develop and implement integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children.

6.—Develop and implement integrated learning experiences that facilitate cognition, communication, social and physical development of infants and toddlers within the context of parent-child and caregiver-child relationships.

7.—Develop and implement learning experiences for preprimary and primary children with focus on multicultural and nonsexist content that includes development of responsibility, aesthetic and artistic development, physical development and well-being, cognitive development, and emotional and social development.

8.—Develop and implement learning experiences for infants, toddlers, preprimary, and primary children with a focus on language, mathematics, science, social studies, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology.

9.—Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs.

10.—Adapt materials, equipment, the environment, programs and use of human resources to meet social, cognitive, physical motor, communication, and medical needs of children and diverse learning needs.

(3) Health, safety and nutrition.

1.—Design and implement physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning.

2.—Promote nutritional practices that support cognitive, social, cultural and physical development of young children.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~3.— Implement appropriate appraisal and management of health concerns of young children including procedures for children with special health care needs.~~

~~4.— Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures.~~

~~5.— Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.~~

~~(4) Family and community collaboration.~~

~~1.— Apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities.~~

~~2.— Assist families in identifying resources, priorities, and concerns in relation to the child's development.~~

~~3.— Link families, based on identified needs, priorities and concerns, with a variety of resources.~~

~~4.— Use communication, problem-solving and help-giving skills in collaboration with families and other professionals to support the development, learning and well-being of young children.~~

~~5.— Participate as an effective member of a team with other professionals and families to develop and implement learning plans and environments for young children.~~

~~(5) Professionalism.~~

~~1.— Understand legislation and public policy that affect all young children, with and without disabilities, and their families.~~

~~2.— Understand legal aspects, historical, philosophical, and social foundations of early childhood education and special education.~~

~~3.— Understand principles of administration, organization and operation of programs for children from birth to age 8 and their families, including staff and program development, supervision and evaluation of staff, and continuing improvement of programs and services.~~

~~4.— Identify current trends and issues of the profession to inform and improve practices and advocate for quality programs for young children and their families.~~

~~5.— Adhere to professional and ethical codes.~~

~~6.— Engage in reflective inquiry and demonstration of professional self-knowledge.~~

~~(6) Pre-student teaching field experiences. Complete 100 clock hours of pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs and in different settings, such as rural and urban, encompassing differing socioeconomic status, ability levels, cultural and linguistic diversity and program types and sponsorship.~~

~~(7) Student teaching. Complete a supervised student teaching experience of a total of at least 12 weeks in at least two different classrooms which include children with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.~~

**13.26(4) Teacher—elementary classroom.** Effective September 1, 2015, the following requirements apply to persons who wish to teach in the elementary classroom:

*a. Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

*b. Content.*

(1) No change.

(2) At least 9 semester hours in literacy development, which must include:

1. Content:

● ~~Children's literature;~~

● ~~Oral and written communication skills for the twenty-first century.~~

● Oral and written communication development; and linguistics, including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics, and the relationship of these components to typical and atypical reading development and reading instruction;

● Phonemic awareness;

● Word identification, including phonics and orthography;

● Fluency;

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- Vocabulary;
- Comprehension;
- Writing mechanics;
- Writing conventions;
- Writing process;
- Children's literature.

2. Methods:

- Assessment, diagnosis and evaluation of student learning in literacy, including the knowledge of the signs and symptoms of dyslexia and other reading difficulties;
- Integration of the language arts (to include reading, writing, speaking, viewing, and listening);
- Integration of technology in teaching and student learning in literacy;
- Current best-practice, research-based ~~approaches of literacy instruction~~ strategies and instructional technology for designing and delivering effective instruction, including appropriate interventions, groupings, remediation, assistive technology, and classroom accommodations for all students including students with dyslexia and other difficulties;
- Classroom management as it applies to literacy methods;
- Pre-student teaching clinical experience in teaching literacy.

(3) to (9) No change.

ITEM 2. Amend rule 282—13.28(272) as follows:

**282—13.28(272) Minimum content requirements for teaching endorsements.**

**13.28(1) to 13.28(32)** No change.

**13.28(33) *Multioccupations.***

a. Completion of any 5-12 endorsement and, in addition thereto, coursework in foundations of career and technical education, and coordination of cooperative programs, and ~~competency-based curriculum development.~~ work experience which meets one of the following:

- (1) Four thousand hours of career and technical experience in two or more ~~occupations.~~ careers;
- (2) One thousand hours of work experience or externships in two or more careers and two or more years of teaching experience at the PK-12 level.

b. The multioccupations endorsement also authorizes the holder to supervise students in cooperative programs, ~~school-to-work~~ work-based learning programs, and similar programs in which the student is placed in school-sponsored, on-the-job situations.

**13.28(34) *CTE information technology. 5-12.***

a. *Authorization.* The holder of this endorsement is authorized to teach career and technical education (CTE) information technology, CTE computer science, and CTE computer programming courses.

b. *Program requirements.* Applicants must hold a valid Iowa teaching license with at least one other teaching endorsement.

c. *Content.* A minimum of 12 semester hours of computer science to include coursework in the following:

- (1) Data representation and abstraction to include primitive data types, static and dynamic data structures, and data types and stores.
- (2) Designing, developing, testing and refining algorithms to include proficiency in two or more programming paradigms.
- (3) Systems and networks to include operating systems, networks, mobile devices, and machine-level data representation.

d. *Methods course.* A content area methods course is required pursuant to 13.29(1). The course should include the following effective teaching and learning strategies for information technology:

- (1) Curriculum development including recognizing and defining real-world computational problems; computing concepts and constructs; developing and using abstractions; creating, testing, and refining computational artifacts; and problem-solving strategies in computer science.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) Project-based methodologies that support active and authentic learning, fostering an inclusive computing culture, collaborative groupings, and opportunities for creative and innovative thinking.

(3) Communication about computing including multiple forms of media.

(4) Digital citizenship including the social, legal, ethical, safe and effective use of computer hardware, software, peripherals, and networks.

e. CTE methods.

(1) A minimum of six semester hours of career and technical curriculum and methods to include:

1. Foundations of career and technical education.

2. Methods of career and technical education.

3. Evaluation and assessment of career and technical programs.

(2) The CTE methods coursework is not required if the educator holds another career and technical endorsement.

f. Waiver of coursework requirements. During the first year of implementation, the coursework requirements may be waived if the practitioner demonstrates relevant content knowledge mastery and successful teaching experience in this endorsement area through criteria established by the board of educational examiners.

ITEM 3. Amend rule 282—24.4(272) as follows:

**282—24.4(272) Paraeducator area of concentration.** An area of concentration is not required but optional. Applicants must currently hold or have previously held an Iowa paraeducator generalist certificate. Applicants may complete one or more areas of concentration but must complete at least 45 clock hours in each area of concentration.

**24.4(1) to 24.4(7)** No change.

**24.4(8) Autism spectrum disorders.** Under the direction and supervision of a qualified classroom teacher, the paraeducator shall successfully complete the following list of competencies.

a. Foundations. Under the supervision of a licensed education professional, the paraeducator will:

(1) Demonstrate an understanding of the components of education plans (individualized education program (IEP), behavior intervention plan (BIP), functional behavioral analysis (FBA), and Section 504 Plan).

(2) Identify common characteristics of students with autism spectrum disorder (communication, social, restricted interest and behavior) and how these characteristics compare to those of typical children.

b. Learning environment. Under the supervision of a licensed education professional, the paraeducator will:

(1) Assist in structuring the environment to meet the needs of students with autism spectrum disorder.

(2) Implement with integrity schedules and educational programs prescribed by the licensed teacher.

c. Content and instruction. Under the supervision of a licensed education professional, the paraeducator will:

(1) Implement the educational, academic, and communication accommodations, adaptations, and supports assigned by a teacher.

(2) Provide opportunities for students with autism spectrum disorders to initiate and respond to large interactions and small interactions in academic settings.

(3) Provide opportunities for students with autism spectrum disorders to initiate, respond to, and participate in interactions in large groups and small groups in authentic situations.

(4) Gather and maintain data on student academic performance as directed by a licensed teacher.

(5) Assist educational staff in developing accommodations and adaptations and self-determination skills to increase student independence.

d. Emotional and behavioral. Under the supervision of a licensed education professional, the paraeducator will:

(1) Understand and identify the function of a behavior (e.g., antecedents, behaviors, consequences).

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) Collect data on student behavior and related environmental stimuli, based on the concepts of antecedents, behaviors and consequences.

(3) Implement antecedent strategies on student behavior, as defined by the licensed educator.

(4) Reinforce and practice replacement behaviors, as defined by the licensed educator.

(5) Respond to problem behaviors in a consistent manner, as defined by the licensed educator.

(6) Gather and maintain data on student social and behavioral performance, as directed by a licensed teacher.

e. Professional relationships. Under the supervision of a licensed education professional, the paraeducator will:

(1) Demonstrate the ability to support the viewpoints and perspectives of students with autism and be empathetic to the students' learning styles.

(2) Respond to challenging behaviors in a respectful, empathetic manner.

f. Ethical and professional practice. Under the supervision of a licensed education professional, the paraeducator will:

(1) Know and understand the expectations of confidentiality in regard to student information and social media usage.

(2) Know and understand the legal constructs of the IEP and the Individuals with Disabilities Education Act (IDEA).

**ARC 3052C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104, 137C.6, 137D.2 and 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 30, "Food and Consumer Safety," Iowa Administrative Code.

The proposed amendments implement 2016 Iowa Acts, chapter 1086, an Act relating to the licensure of home food establishments. Pursuant to the legislation, home food establishments are now called home bakeries. These amendments reflect updates to the Food Code issued by the federal Food and Drug Administration (FDA) with changes through 2015. Proposed amendments to Chapter 31, "Food Establishment and Food Processing Plant Inspections," published as **ARC 3053C** herein, adopt the 2013 FDA Model Food Code with Supplement. These amendments also clarify provisions to reduce confusion for establishments under the jurisdiction of other food licensing agencies, such as the Iowa Department of Agriculture and Land Stewardship.

Prior to publication of this Notice of Intended Action, the Department distributed a draft of these amendments for comment to industry associations, local contracting health departments, and food safety educators. No comments were received.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 10A.104 and 137F.2.

The following amendments are proposed.

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

ITEM 1. Amend rule 481—30.1(10A,137C,137D,137F) as follows:

**481—30.1(10A,137C,137D,137F) Food and consumer safety bureau.** The food and consumer safety bureau inspects food establishments and food processing plants including food storage facilities (warehouses), home ~~food establishments~~ bakeries, food and beverage vending machines, and hotels and motels. The food and consumer safety bureau is also responsible for ~~targeted small business certification~~, social and charitable gambling, and amusement devices. Separate chapters have been established for the administration of targeted small business certification (481—Chapter 25), social and charitable gambling (481—Chapters 100 to 103, 106, and 107), and amusement devices (481—Chapters 104 and 105).

This rule is intended to implement Iowa Code sections 10A.104 and 22.11 and Iowa Code chapters 137C, 137D and 137F.

ITEM 2. Adopt the following **new** definitions of “Catering,” “Personal chef,” and “Unattended food establishment” in rule **481—30.2(10A,137C,137D,137F)**:

“*Catering*” means the preparation of food for distribution to an individual, business or organization for exclusive service to the individual’s, business’s or organization’s nonpaying guests, employees or members.

“*Personal chef*” or “*hired cook*” means a person who provides food preparation services in a private home or at a private party for a client and the client’s nonpaying guests. “Personal chef” or “hired cook” does not include a person who provides the ingredients intended to be used in food preparation.

“*Unattended food establishment*” means an operation that provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public. “Controlled entry,” for the purposes of the definition of “unattended food establishment,” means selective restriction or limitation of access to a place or location.

ITEM 3. Amend rule **481—30.2(10A,137C,137D,137F)**, definitions of “Food establishment,” “Food processing plant,” and “Home food establishment,” as follows:

“*Food establishment*” means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption and includes a food service operation in a salvage or distressed food operation, nutrition program operated pursuant to Title III-C of the Older Americans Act, school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, the state training school and the Iowa juvenile home. Assisted living programs and adult day services are included in the definition of food establishment to the extent required by 481—subrules 69.28(6) and 70.28(6). “Food establishment” does not include the following:

1. A food processing plant.
2. An establishment that offers only prepackaged foods that are not potentially hazardous.
3. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.
4. Premises which are a home ~~food establishment~~ bakery pursuant to Iowa Code chapter 137D.
5. Premises which operate as a farmers market.
6. Premises of a residence in which food that is not potentially hazardous is sold for consumption off the premises to a consumer customer, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. This exception does not apply to resale goods. This exception applies only to sales made from the residence in person and does not include mail order or Internet sales.
7. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.
8. A private home or private party where a personal chef or hired cook is providing food preparation services to a client and the client’s nonpaying guests.
- ~~8.~~ 9. A private home that receives catered or home-delivered food.

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

~~9.~~ 10. Child day care facilities and other food establishments located in hospitals or health care facilities that serve only patients and staff and are subject to inspection by other state agencies or divisions of the department.

~~10.~~ 11. Supply vehicles or vending machine locations.

~~11.~~ 12. Establishments that are exclusively engaged in the processing of meat and poultry which and are licensed pursuant to Iowa Code section 189A.3.

~~12.~~ 13. The following premises, provided they are exclusively engaged in the sale of alcoholic beverages in a prepackaged form:

- Premises covered by a current Class “A” beer permit, including a Class “A” native beer permit as provided in Iowa Code chapter 123;
- Premises covered by a current Class “A” wine permit, including a Class “A” native wine permit as provided in Iowa Code chapter 123; and
- Premises of a manufacturer of distilled spirits under Iowa Code chapter 123.

~~13.~~ 14. Premises ~~covered~~ or operations that are exclusively engaged in the processing of milk and milk products, are regulated by Iowa Code section 192.107 with, and have a milk or milk products permit issued by the department of agriculture and land stewardship.

~~14.~~ 15. Premises or operations ~~which~~ that are exclusively engaged in the production of shell eggs, are regulated by or subject to Iowa Code section 196.3, and which have an egg handler’s license.

~~15.~~ 16. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; or labeled or from which honey is distributed.

~~16.~~ 17. Premises regularly used by a nonprofit organization which engages in the serving of food on the premises as long as the nonprofit organization does not exceed the following restrictions:

- The nonprofit organization serves food no more than one day per calendar week and not on two or more consecutive days;
- Twice per year, the nonprofit organization may serve food to the public for up to three consecutive days; and
- The nonprofit organization may use the premises of another nonprofit organization not more than twice per year for one day to serve food.

“*Food processing plant*” means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer. “Food processing plant” does not include any of the following:

1. The following premises, provided they are exclusively engaged in the sale of alcoholic beverages in a prepackaged form:

- Premises covered by a current Class “A” beer permit, including a Class “A” native beer permit as provided in Iowa Code chapter 123;
- Premises covered by a current Class “A” wine permit, including a Class “A” native wine permit as provided in Iowa Code chapter 123; and
- Premises of a manufacturer of distilled spirits under Iowa Code chapter 123.

2. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; or labeled or from which honey is distributed.

3. Premises or operations that are exclusively engaged in the processing of meat and poultry and are licensed pursuant to Iowa Code section 189A.3.

4. Premises or operations that are exclusively engaged in the processing of milk or milk products, are regulated by Iowa Code section 192.107, and have a milk or milk products permit issued by the department of agriculture and land stewardship.

5. Premises or operations that are exclusively engaged in the production of shell eggs, are regulated by Iowa Code section 196.3, and have an egg handler’s license.

“*Home food establishment bakery*” means a business on the premises of a residence that is operating as a home-based bakery where ~~potentially hazardous bakery~~ baked goods are prepared for consumption elsewhere. Annual gross sales of these products cannot exceed ~~\$20,000~~ \$35,000. “Home food establishment bakery” does not include: ~~a residence where food is prepared to be used or sold by churches, fraternal societies, or charitable, civic or nonprofit organizations. Residences which prepare~~

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

~~or distribute honey, shell eggs or nonhazardous baked goods are not required to be licensed as home food establishments.~~

1. A food establishment;
2. A food processing plant;
3. A residence where food is prepared to be used or sold by churches, fraternal societies, or charitable, civic or nonprofit organizations;
4. A residence that prepares or distributes honey;
5. A residence that distributes shell eggs;
6. A residence that prepares nonhazardous foods for sale at a farmers market; or
7. A residence that prepares nonhazardous baked goods sold directly from the residence. This exception does not apply to resale goods. This exception applies only to sales made from the residence in person and does not include mail order or Internet sales.

ITEM 4. Amend subrule 30.4(4) as follows:

**30.4(4)** ~~Home food establishments bakery.~~ The license fee for a home food establishments bakery is \$33.75 (Iowa Code section 137D.2(1)).

ITEM 5. Amend subrule 30.8(5) as follows:

**30.8(5)** ~~Home food establishments bakeries and vending machines.~~ Home food establishments bakeries and vending machines shall be inspected at least once every 24 months.

ITEM 6. Amend subrule 30.10(1) as follows:

**30.10(1)** ~~Immediate suspension of license.~~ To the extent not inconsistent with Iowa Code chapters 17A, 137C, 137D, and 137F and rules adopted pursuant to those chapters, chapter 8 of the Food Code shall be adopted for food establishments and home food establishments bakeries. The department or contractor may immediately suspend a license in cases of an imminent health hazard. The procedures of Iowa Code section 17A.18A and Food Code chapter 8 shall be followed in cases of an imminent health hazard. The appeal process in rule 481—30.11(10A,137C,137D,137F) is available following an immediate suspension. The department may immediately suspend the license of a food processing plant or hotel if an imminent health hazard finding is made and the procedures of Iowa Code section 17A.18A are followed.

**ARC 3053C**

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 10A.104 and 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

These amendments propose to adopt the 2013 Food Code with Supplement of the Food and Drug Administration as the state’s food code. The 2013 Food Code with Supplement reflects changes through 2015. These amendments include a change recommended for inclusion in 2017 by the federal Food and Drug Administration (FDA) related to unattended food establishments, which will streamline the process for industry and eliminate the need to obtain a waiver from the Department for this activity. The intended effective date for the 2013 Food Code with Supplement is January 1, 2018. Finally, these amendments reflect updates to the Code of Federal Regulations (CFR) for 2017. The updates include the adoption of 21 CFR Part 117, which contains the modernized good manufacturing practices and the preventive control rules, both required by the FDA Food Safety Modernization Act.

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

Prior to publication of this Notice of Intended Action, the Department distributed a draft of these amendments for comment to industry associations, local contracting health departments and food safety educators. No comments were received.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 10A.104 and 137F.2.

The following amendments are proposed.

ITEM 1. Amend rule 481—31.1(137F) as follows:

**481—31.1(137F) Inspection standards for food establishments.** The department adopts, with the following exceptions, the ~~2009~~ 2013 Food Code with Supplement of the Food and Drug Administration as the state's "food code," which is the inspection standard for food establishments other than food processing plants.

**31.1(1) Unattended food establishments—assignment of responsibility.** For the purposes of section 2-101.11 of the 2013 Food Code with Supplement, unattended food establishments are not required to have a designated person in charge present during all hours of operation provided that the permit holder ensures the following requirements are met.

*a. Unattended food establishment location.* The unattended food establishment shall be located in the interior of a building that is not accessible by the general public. Access to the unattended food establishment shall be limited to a defined population (e.g., employees or occupants of the building where the establishment is located).

*b. Nature and source of food and beverages offered for sale.*

(1) Only commercially packaged foods properly labeled for individual retail sale, pursuant to Food Code section 3-201.11(C), shall be offered.

(2) No unpackaged food is permitted except as provided by section 3-302.11(B)(1) of the Food Code.

(3) Food preparation by consumers is limited to heating/reheating food in a microwave oven.

(4) No dispensing of bulk food is permitted.

*c. Refrigerated display equipment.* An unattended food establishment shall be equipped with refrigeration or freezer units that have the following features:

(1) Self-closing doors that allow food to be viewed without opening the door to the refrigerated cooler or freezer; and

(2) An automatic self-locking mechanism that prevents the consumer from accessing the food upon the occurrence of any condition that results in the failure of the refrigeration unit to maintain the internal product temperature specified under section 3-501.16(A)(2) or of the freezer unit to maintain the product as frozen.

*d. Food service equipment limitations.*

(1) Beverages are dispensed by individual serving only. Beverage dispensers connected to the building water supply must be properly equipped with backflow prevention pursuant to section 5-203.14 of the Food Code.

(2) Food-contact surfaces.

1. Multiuse food-contact surfaces shall be cleaned on a frequency consistent with the service pursuant to section 4-202.11 of the Food Code or can be and are easily removed and replaced with cleaned surfaces.

2. No multiuse food-contact surfaces intended for use with time/temperature control for safety foods are permitted.

*e. Security.*

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

(1) An unattended food establishment shall provide continuous video surveillance of areas where consumers view, select, handle and purchase products. The continuous video surveillance shall provide sufficient resolution to identify situations that may compromise food safety or food defense.

1. Video surveillance recordings shall be maintained and, upon request by a representative of a regulatory agency, made available for inspection within 24 hours of the request.

2. Video surveillance recordings shall be held by the establishment for a minimum of 14 days after the date of the surveillance.

(2) The permit holder shall take reasonable steps necessary to discourage individuals from returning food, beverages, or both that have not been selected for purchase.

f. Routine maintenance at an unattended food establishment.

(1) The permit holder shall service the unattended food establishment at least weekly. Service may include, but is not limited to, the following:

1. Checking food supplies and equipment for signs of product damage, tampering, or both.

2. Verifying that refrigeration equipment is operating properly, including the temperature display and self-locking mechanism.

3. Rotating foods to better ensure first in/first out of food items.

4. Cleaning food service equipment and food display areas.

5. Stocking food and disposable single-use and single-service supplies.

6. Checking inventory for recalled foods.

(2) The permit holder shall ensure that:

1. Food is from an approved source.

2. Packaged food is provided in tamper-evident packaging.

3. Food is protected from potential sources of cross contamination.

4. Food is maintained at safe temperatures during transport and display.

g. Unattended food establishment oversight. Each unattended food establishment shall have a sign readily visible at the automated payment station stating:

(1) The name and mailing address of the business entity responsible for the establishment and to whom complaints and comments should be addressed.

(2) The telephone number, e-mail address or Web information for the responsible business entity, when applicable.

h. Designation of responsibilities. The permit holder bears all responsibilities for the operation of the food establishment. When the permit holder is not the owner or operator of the building where the food establishment is located, a mutual agreement that outlines the responsibilities for cleaning and maintenance of all surfaces and equipment and for provision of supportive facilities/services, such as janitorial services and restroom facilities, pest control and removal of solid waste, may be approved by the regulatory agency. This agreement should also outline actions that must be taken by both parties to maintain the establishment in compliance with all requirements including responding to imminent health hazards.

i. Inspections—on-site person in charge. When requested by the regulatory authority for the purposes of conducting an inspection, the permit holder shall provide an on-site person in charge within a reasonable time frame not to exceed four hours.

~~31.1(1)~~ 31.1(2) Certified food protection manager required—exceptions and time frames for employment.

a. For purposes of section 2-102.12 of the 2009 2013 Food Code with Supplement, establishments that sell only prepackaged foods are not required to employ an individual who is a certified food protection manager. Temporary food establishments are not required to employ an individual who is a certified food protection manager. Bars or taverns at which food is not prepared, where customers may purchase alcoholic beverages, and where the serving of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn, or peanuts and the reheating of commercially prepared foods that do not require assembly, such as frozen pizza or prepackaged sandwiches, are not required to employ an individual who is a certified food protection manager. the following food establishments are not required to employ an individual who is a certified food protection manager:

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

(1) Food establishments that sell only prepackaged food.

(2) Temporary or farmers market food establishments.

(3) Food establishments at which food is not prepared, where customers may purchase beverages, and where the service of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn, or peanuts and to the reheating of commercially prepared foods for immediate service that do not require assembly, such as frozen pizza or prepackaged sandwiches.

(4) Food establishments at which food is not prepared, where customers may purchase only commercially prepared nonpotentially hazardous foods that are dispensed either unpackaged or packaged and are intended for off-premises consumption.

b. For all other establishments, the following time frames apply for employment of an individual who is a certified food protection manager:

~~a.~~ (1) For establishments newly licensed after January 1, 2014, the requirement of section 2-102.12 must be met within six months of licensure.

~~b.~~ (2) Establishments in existence as of January 1, 2014, that do not receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 by January 1, 2018.

~~c.~~ (3) Establishments in existence as of January 1, 2014, that receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 within six months of the violation.

~~d.~~ (4) If the individual meeting the requirement of section 2-102.12 leaves employment with an establishment required to meet section 2-102.12, the establishment shall meet the requirement of section 2-102.12 within six months.

~~31.1(2)~~ **31.1(3)** *Honey prepared in a residence.* Section 3-201.11 is amended to allow honey which is stored; prepared, including by placement in a container; or labeled at or distributed from the premises of a residence to be sold in a food establishment.

~~31.1(3)~~ **31.1(4)** *Morel mushrooms.* Section 3-201.16, paragraph (A), is amended by adding the following:

“A food establishment or farmers market potentially hazardous food licensee may serve or sell morel mushrooms if procured from an individual who has completed a morel mushroom identification expert course. Every morel mushroom shall be identified and found to be safe by a certified morel mushroom identification expert whose competence has been verified and approved by the department through the expert’s successful completion of a morel mushroom identification expert course provided by either an accredited college or university or a mycological society. The certified morel mushroom identification expert shall personally inspect each mushroom and determine it to be a morel mushroom. A morel mushroom identification expert course shall be at least three hours in length. To maintain status as a morel mushroom identification expert, the individual shall have successfully completed a morel mushroom identification expert course described above within the past three years. A person who wishes to offer a morel mushroom identification expert course must submit the course curriculum to the department for review and approval. Food establishments or farmers market potentially hazardous food licensees offering morel mushrooms shall maintain the following information for a period of 90 days from the date the morel mushrooms were obtained:

“1. The name, address, and telephone number of the morel mushroom identification expert;

“2. A copy of the morel mushroom identification expert’s certificate of successful completion of the course, containing the date of completion; and

“3. The quantity of morel mushrooms purchased and the date(s) purchased.

“Furthermore, a consumer advisory shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means that wild mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.”

~~31.1(4)~~ **31.1(5)** *Field-dressed wild game prohibition.* Subparagraph 3-201.17(A)(4) is amended to state that field-dressed wild game shall not be permitted in food establishments unless:

*a.* The food establishment is also licensed and inspected by the Iowa department of agriculture and land stewardship, meat and poultry inspection bureau, pursuant to Iowa Code section 189A.3;

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

b. All field-dressed wild game is adequately separated from food, equipment, utensils, clean linens, and single-service and single-use articles; and

c. Any equipment used in the processing of field-dressed wild game is adequately cleaned and sanitized before use with other foods.

~~31.1(5) Preventing contamination from hands.~~ Section 3-301.11, paragraph (D), is amended to incorporate the changes to this section adopted in the 2013 Food Code, which provides as follows:

~~“(D) Paragraph (B) of this section does not apply to a food employee that contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:~~

~~“(1) Contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures specified in ¶3-401.11(A)-(B) or §3-401.12; or~~

~~“(2) Does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 63°C (145°F).”~~

~~31.1(6) Noncontinuous cooking of raw animal foods.~~ Section 3-401.14, paragraph (D), is amended as follows to incorporate the changes in this section adopted in the 2013 Food Code:

~~(D) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11(A)-(C);<sup>P</sup>~~

~~31.1(7) 31.1(6) Reduced oxygen packaging in meat and poultry processing plants.~~ Meat and poultry processing plants that are licensed and inspected by the Iowa department of agriculture and land stewardship (IDALS) meat and poultry inspection bureau pursuant to Iowa Code section 189A.3 and that are also licensed as a food establishment are exempt from section 3-502.11, paragraphs (A), (B), (D) and (F), and section 3-502.12 if all of the following criteria are met:

a. Each food product formulation has been approved by the Iowa department of agriculture and land stewardship, meat and poultry inspection bureau;

b. A copy of the approved formulation (T40/45) is maintained on file at the establishment and made available to the regulatory authority upon request;

c. Cooked products that do not include a curing agent or an antimicrobial agent that will control *Clostridium botulinum* and *Listeria monocytogenes* that are in a reduced oxygen package are stored and sold frozen and are labeled “Keep Frozen”; and

d. The food products are properly labeled.

~~31.1(8) 31.1(7) Reduced oxygen packaging.~~ Section 3-502.12 is amended to incorporate the changes in this section adopted in the 2013 Food Code, which provides as follows include the following:

~~3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.~~

~~(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3-502.11, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.<sup>P</sup>~~

~~(B) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall implement a HACCP PLAN that contains the information specified under ¶¶ 8-201.14(B) and (D) and that:<sup>Pf</sup>~~

~~(1) Identifies the FOOD to be PACKAGED;<sup>Pf</sup>~~

~~(2) Except as specified under ¶¶ (C)–(E) of this section, requires that the PACKAGED FOOD shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria:<sup>Pf</sup>~~

~~(a) Has an  $A_w$  of 0.91 or less,<sup>Pf</sup>~~

~~(b) Has a pH of 4.6 or less,<sup>Pf</sup>~~

~~(c) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact PACKAGE,<sup>Pf</sup> or~~

~~(d) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables;<sup>Pf</sup>~~

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

~~(3) Describes how the PACKAGE shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: <sup>Pf</sup>~~

~~(a) Maintain the FOOD at 5°C (41°F) or below, <sup>Pf</sup> and~~

~~(b) Discard the FOOD if, within 30 calendar days of its PACKAGING, it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption; <sup>Pf</sup>~~

~~(4) Limits the refrigerated shelf life to no more than 30 calendar days from PACKAGING to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; <sup>P</sup>~~

~~(5) Includes operational procedures that:~~

~~(a) Prohibit contacting READY TO EAT FOOD with bare hands as specified under ¶ 3-301.11(B), <sup>Pf</sup>~~

~~(b) Identify a designated work area and the method by which; <sup>Pf</sup>~~

~~(i) Physical barriers or methods of separation of raw FOODS and READY TO EAT FOODS minimize cross-contamination, <sup>Pf</sup> and~~

~~(ii) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential HAZARDS of the operation, <sup>Pf</sup> and~~

~~(c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES; <sup>Pf</sup> and~~

~~(6) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the: <sup>Pf</sup>~~

~~(a) Concepts required for a safe operation, <sup>Pf</sup>~~

~~(b) EQUIPMENT and facilities, <sup>Pf</sup> and~~

~~(c) Procedures specified under Subparagraph (B)(5) of this section and ¶¶ 8-201.14(B) and (D). <sup>Pf</sup>~~

~~(7) Is provided to the REGULATORY AUTHORITY prior to implementation as specified under ¶ 8-201.13(B).~~

~~(C) Except for FISH that is frozen before, during, and after PACKAGING, a FOOD ESTABLISHMENT may not PACKAGE FISH using a REDUCED OXYGEN PACKAGING method. <sup>P</sup>~~

~~(D) Except as specified under ¶ (C) and ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a cook-chill or sous vide process shall:~~

~~(1) Provide to the REGULATORY AUTHORITY prior to implementation, a HACCP PLAN that contains the information as specified under ¶¶ 8-201.14(B) and (D); <sup>Pf</sup>~~

~~(2) Ensure the FOOD is:~~

~~(a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES but within the same business entity with no distribution or sale of the PACKAGED product to another business entity or the CONSUMER, <sup>Pf</sup>~~

~~(b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11(A), (B), and (C), <sup>P</sup>~~

~~(c) Protected from contamination before and after cooking as specified under Parts 3-3 and 3-4, <sup>P</sup>~~

~~(d) Placed in a PACKAGE with an oxygen barrier and sealed before cooking, or placed in a PACKAGE and sealed immediately after cooking and before reaching a temperature below 57°C (135°F), <sup>P</sup>~~

~~(e) Cooled to 5°C (41°F) in the sealed PACKAGE or bag as specified under § 3-501.14 and: <sup>P</sup>~~

~~(i) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of PACKAGING; <sup>P</sup>~~

~~(ii) Held at 5°C (41°F) or less for no more than 7 days, at which time the FOOD must be consumed or discarded; <sup>P</sup> or~~

~~(iii) Held frozen with no shelf life restriction while frozen until consumed or used. <sup>P</sup>~~

~~(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, <sup>Pf</sup>~~

~~(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, <sup>Pf</sup> and~~

~~(h) Labeled with the product name and the date PACKAGED; <sup>Pf</sup> and~~

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

~~(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP PLAN and:~~

- ~~(a) Make such records available to the REGULATORY AUTHORITY upon request, <sup>Pf</sup> and  
(b) Hold such records for at least 6 months; <sup>Pf</sup> and~~

~~(4) Implement written operational procedures as specified under subparagraph (B)(5) of this section and a training program as specified under subparagraph (B)(6) of this section. <sup>Pf</sup>~~

~~(E) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED-OXYGEN PACKAGING method shall:~~

~~(1) Limit the cheeses PACKAGED to those that are commercially manufactured in a FOOD PROCESSING PLANT with no ingredients added in the FOOD ESTABLISHMENT and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses; <sup>P</sup>~~

~~(2) Have a HACCP PLAN that contains the information specified under ¶¶ 8-201.14(B) and (D) and as specified under ¶¶ (B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section; <sup>Pf</sup>~~

~~(3) Label the PACKAGE on the principal display panel with a “use by” date that does not exceed 30 days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; <sup>Pf</sup> and~~

~~(4) Discard the REDUCED-OXYGEN PACKAGED cheese if it is not sold for off PREMISES consumption or consumed within 30 calendar days of its PACKAGING. <sup>Pf</sup>~~

~~(F) “A HACCP PLAN is not required when a FOOD ESTABLISHMENT packages raw meat and poultry using a REDUCED OXYGEN PACKAGING method and includes on the package a 30-day “sell by” date from the date the raw meat or poultry was packaged.” or uses a REDUCED-OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:~~

- ~~(1) Labeled with the production time and date,  
(2) Held at 5°C (41°F) or less during refrigerated storage, and  
(3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.~~

~~**31.1(9)** **31.1(8)** *Warewashing sinks in establishments serving alcoholic beverages.* Section 4-301.12 is amended by adding the following: “When alcoholic beverages are served in a food service establishment, a sink with not fewer than three compartments shall be used in the bar area for manual washing, rinsing and sanitizing of bar utensils and glasses. When food is served in a bar, a separate three-compartment sink for washing, rinsing and sanitizing food-related dishes shall be used in the kitchen area, unless a dishwasher is used to wash utensils.”~~

~~**31.1(10)** **31.1(9)** *Allowance for two-compartment sinks in certain circumstances.* Paragraph 4-301.12(C) is amended by adding the following: “Establishments need not have a three-compartment sink when each of the following conditions is met:~~

- ~~“1. Three or fewer utensils are used for food preparation;  
“2. Utensils are limited to tongs, spatulas, and scoops; and  
“3. The department has approved after verification that the establishment can adequately wash and sanitize these utensils.”~~

~~**31.1(11)** **31.1(10)** *Chemical treated towelettes.* Paragraph 5-203.11(C) is deleted.~~

~~**31.1(12)** **31.1(11)** *Service sink.* For existing establishments, if waste water is being appropriately disposed of, section 5-203.13 for existing establishments shall go into effect upon the establishment’s renovation or sale.~~

~~**31.1(13)** **31.1(12)** *Toilets and lavatories.* Section 5-203.12 is amended by adding the following requirement: “Separate toilet facilities for men and women shall be provided in establishments which seat 50 or more people or in establishments which serve beer or alcoholic beverages.”~~

~~**31.1(14)** **31.1(13)** *Backflow protection.* Section 5-203.14 is amended by adding the following: “Water outlets with hose attachments, except for water heater drains and clothes washer connections, shall be protected by a non-removable hose bibb backflow preventer or by a listed atmospheric vacuum~~

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

breaker installed at least six inches above the highest point of usage and located on the discharge side of the last valve.”

~~31.1(15)~~ **31.1(14)** *Backflow prevention.* Paragraph 5-402.11(D) is amended by adding the following: “A culinary sink or sink used for food preparation shall not have a direct connection between the sewage system and a drain originating from that sink. Culinary sinks or sinks used in food preparation shall be separated by an air break.”

~~31.1(16)~~ **31.1(15)** *Inspection standards for elder group homes.* Elder group homes as defined by Iowa Code section 231B.1 shall be inspected by the department, but chapters 4 and 6 of the Food Code shall not apply. Elder group homes shall pay the lowest license fee set forth in 481—subrule 30.4(2).

~~31.1(17)~~ **31.1(16)** *Nonprofit exception for temporary events.* Nonprofit organizations that are licensed as temporary food establishments may serve nonpotentially hazardous food from an unapproved source for the duration of the event.

~~31.1(18)~~ **31.1(17)** *Variance approval by department and submission of HACCP plans.* Any variances or HACCP plans that require approval by the “regulatory authority” must be approved by the department. HACCP plans pursuant to paragraphs 3-502.12(B) and 8-201.13(B) shall be filed with the department prior to implementation, regardless of whether or not the plan requires approval.

~~31.1(19)~~ **31.1(18)** *Trichinae control for pork products prepared at retail.* Pork products prepared at retail shall comply with the Code of Federal Regulations found in 9 CFR, Section 318.10, January 1, 2015, publication, regarding the destruction of possible live trichinae in pork and pork products. Examples of pork products that require trichinae control include raw sausages containing pork and other meat products, raw breaded pork products, bacon used to wrap around steaks and patties, and uncooked mixtures of pork and other meat products contained in meat loaves and similar types of products. The use of “certified pork” as authorized by the Iowa department of agriculture and land stewardship or the United States Department of Agriculture, Food Safety and Inspection Service, shall meet the requirements of this subrule.

This rule is intended to implement Iowa Code section 137F.2.

ITEM 2. Amend subrule 31.2(9), introductory paragraph, as follows:

**31.2(9)** *Adoption of Code of Federal Regulations.* The following parts of the Code of Federal Regulations (April 1, ~~2015~~ 2017) are adopted:

ITEM 3. Amend paragraph **31.2(9)“a”** as follows:

a. 21 CFR Part 1, Sections 1.20 to 1.24 and Subpart O, Sections 1.900-1.934 (labeling).

ITEM 4. Reletter paragraphs **31.2(9)“v”** to **“bi”** as **31.2(9)“x”** to **“bk.”**

ITEM 5. Adopt the following new paragraph **31.2(9)“v”**:

v. 21 CFR Part 117, current good manufacturing practice and hazard analysis and risk-based preventive controls for human food, as follows:

(1) As of October 1, 2017, subparts A, B and F of 21 CFR 117 shall be in effect for all food processing plants.

(2) As of October 1, 2017, all other subparts of 21 CFR 117 shall be effective upon the effective date established by the federal government.

(3) As of October 1, 2018, qualified facilities, as defined in 21 CFR 117, shall not include food processing plants manufacturing foods for interstate commerce or as an ingredient to other foods.

ITEM 6. Adopt the following new paragraph **31.2(9)“w”**:

w. 21 CFR Part 118, production, storage and transportation of shell eggs.

**ARC 3051C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104, 137D.2 and 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 34, “Home Food Establishments,” Iowa Administrative Code.

These amendments implement 2016 Iowa Acts, chapter 1086, an Act relating to the licensure of home food establishments. Pursuant to the legislation, home food establishments are now called home bakeries.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 10A.104 and 137F.2.

The following amendments are proposed.

ITEM 1. Amend **481—Chapter 34**, title, as follows:

**HOME FOOD ESTABLISHMENTS BAKERIES**

ITEM 2. Amend subrule 34.1(4) as follows:

**34.1(4)** All potentially hazardous food must be refrigerated at 41°F or less, ~~or held at 135°F or higher,~~ to control bacterial growth. ~~Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.~~

ITEM 3. Amend rule 481—34.2(137D) as follows:

**481—34.2(137D) Enforcement.**

**34.2(1)** All ~~critical~~ violations shall be corrected within ~~10~~ 90 days of an inspection. ~~Within 15 days,~~ ~~the~~ The license holder shall make a written report to the regulatory authority, stating the action taken to correct the ~~critical~~ violation. ~~All noncritical violations shall be corrected within the time period required by the inspection, but in all cases the violation shall be corrected within 90 days of the routine inspection.~~

**34.2(2)** Violation of these rules or any provision of Iowa Code chapter 137D is a simple misdemeanor. The department may employ various remedies if violations are discovered.

- a. A license may be revoked.
- b. An injunction may be sought.
- c. A case may be referred to a county attorney for criminal prosecution.
- d. Foods may be embargoed or a stop-sale order may be issued.

ITEM 4. Amend rule 481—34.4(137D) as follows:

**481—34.4(137D) Annual gross sales.** Annual gross sales shall not exceed ~~\$20,000~~ \$35,000. The license holder shall maintain a record of sales of food licensed under Iowa Code section 137D.1(3). The record shall be available to the regulatory authority when requested.

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

ITEM 5. Amend paragraph **34.5(1)“a”** as follows:

a. Conducts an activity constituting a criminal offense in the licensed home ~~food establishment~~ bakery; and

ITEM 6. Amend paragraph **34.5(2)“a”** as follows:

a. Conducts an activity constituting a criminal offense in the licensed home ~~food establishment~~ bakery; and

**ARC 3048C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 99B.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 102, “Social Gambling,” Iowa Administrative Code.

This proposed amendment implements changes to Iowa Code chapter 99B resulting from 2015 Iowa Acts, chapter 99 (Senate File 482), which made substantial updates and revisions to Iowa Code chapter 99B, including requirements for social gambling now found in Iowa Code sections 99B.41 to 99B.45. With these updated and new provisions in the Iowa Code, the Department has concluded that it is unnecessary at this time to supplement these Iowa Code provisions with administrative rules. Therefore, this amendment proposes to rescind and reserve Chapter 102.

The Department does not believe that the proposed amendment imposes any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

This amendment is intended to implement Iowa Code section 99B.2.

The following amendment is proposed.

Rescind and reserve **481—Chapter 102**.

**ARC 3050C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 99B.2 and 99B.52(7), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 104, “General Provisions for All Amusement Devices,” and Chapter 105, “Registered Amusement Devices,” Iowa Administrative Code.

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

These proposed amendments implement the changes to Iowa Code chapter 99B resulting from 2015 Iowa Acts, chapter 99 (Senate File 482). The legislation modernized Iowa Code chapter 99B, streamlined processes, and eliminated unnecessary licenses.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code section 99B.2.

The following amendments are proposed.

ITEM 1. Amend rule **481—104.1(10A,99B)**, definitions of “Amusement device” and “Gambling device,” as follows:

“*Amusement device*” means an electrical or mechanical device possessed and used in accordance with Iowa Code ~~section 99B.10~~ chapter 99B. An amusement device is not a game of skill or chance as defined in Iowa Code section 99B.1, a gambling device, or a device that plays poker, blackjack, or keno. Roulette wheels, slot machines, and other devices specified in Iowa Code section 725.9 as gambling devices are not amusement devices.

“*Gambling device*” means a device possessed or used or designed to be used for gambling and includes, but is not limited to: roulette wheels, klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pachislo skill-stop machine or any other similar machine or device, push cards, jar tickets, pull-tabs, and video machines or other devices that do not comply with Iowa Code ~~section 99B.10~~ chapter 99B.

ITEM 2. Adopt the following new definition of “Progressive games” in rule **481—104.1(10A,99B)**: “*Progressive games*” means games in which the value of the prizes increases an incremental amount with each game.

ITEM 3. Amend rule 481—104.2(99B) as follows:

**481—104.2(99B) Device restrictions.** An amusement device, except for an amusement device which shall be registered pursuant to Iowa Code section ~~99B.10(1)~~“*f*,” 99B.53, may be owned, possessed, or offered for use by any person at any location. All amusement devices shall comply with all of the following:

1. to 8. No change.

9. The device must be registered if it meets the registration requirements set forth in Iowa Code section 99B.53 and rule 481—104.5(99B).

ITEM 4. Amend rule 481—104.3(99B) as follows:

**481—104.3(99B) Prohibited games/devices.** The following games or devices are not permitted:

1. and 2. No change.

3. Any machine that does not conform to the requirements in these rules or Iowa Code ~~section 99B.10~~ chapter 99B.

4. and 5. No change.

6. Progressive games.

NOTE: This rule does not prohibit the possession of antique slot machines when possessed pursuant to Iowa Code chapter 725.

ITEM 5. Amend rule 481—104.5(99B) as follows:

**481—104.5(99B) Registration.** An amusement device must be registered if it meets the registration requirements set forth in Iowa Code section ~~99B.10(1)~~“*f*,” 99B.53. The outcome of the game is not primarily determined by the skill or knowledge of the player and registration is required if chance plays

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

an equal or greater role than the player's skill or knowledge in determining the outcome of the game. "Outcome of the game" includes both whether the player correctly solves the puzzle and what prize is awarded. Additional licenses or registrations under Iowa Code chapter 99B are not required.

ITEM 6. Amend rule 481—104.6(99B) as follows:

**481—104.6(99B) Violations.** Failure to comply with the limitations imposed on the use and possession of amusement devices in Iowa Code ~~section 99B.10 as amended by 2007 Iowa Acts, Senate File 510, section 2, chapter 99B~~ constitutes unlawful gambling, which may result in the following consequences. Additional consequences apply for registered amusement devices pursuant to 481—Chapter 105 and Iowa Code ~~section 99B.10 as amended by 2007 Iowa Acts, Senate File 510, section 2 chapter 99B.~~

1. Conviction for illegal gambling under the provisions of Iowa Code chapter 725.
2. Forfeiture of property under the provisions of Iowa Code chapter 809.

ITEM 7. Adopt the following **new** rule 481—104.7(99B,17A):

**481—104.7(99B,17A) Declaratory orders.** In addition to the requirements for declaratory orders found in 481—Chapter 3, parties seeking a declaratory order shall file with their petition a written evaluation of the game by an independent gaming laboratory approved by the department.

**104.7(1) *Approved by the department.*** "Approved by the department," for purposes of this rule, means the gaming laboratory has submitted its qualifications in writing to the director for review and approval in writing by the director or the director's designee.

**104.7(2) *Written evaluation—requirements.*** The independent gaming laboratory's evaluation must analyze whether chance plays an equal or greater role than the player's skill or knowledge in determining the outcome of the game. "Outcome of the game" includes both whether the player correctly solves the puzzle and what prize is awarded.

ITEM 8. Amend **481—Chapter 104**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section 99B.10~~ sections 99B.1, 99B.2 and 99B.51 to 99B.60.

ITEM 9. Rescind the definitions of "Manufacturer's representative" and "Organization" in rule **481—105.1(10A,99B)**.

ITEM 10. Amend rule **481—105.1(10A,99B)**, definitions of "Distributor," "Manufacturer," "Owner," "Registered amusement device" and "Responsible party," as follows:

*"Distributor"* ~~means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person who owns electrical or mechanical amusement devices that are registered as provided in Iowa Code section 99B.10(4) and that are offered for use at more than a single location or premises is as defined in Iowa Code section 99B.51.~~

*"Manufacturer"* ~~means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that originally produces an electrical or mechanical amusement device required to be registered under Iowa Code section 99B.10(4) or produces individual components for use in such a device is as defined in Iowa Code section 99B.51.~~

*"Owner"* ~~means, for the purposes of Iowa Code sections 99B.10A and 99B.10B, any person that owns an operable registered electrical or mechanical amusement device. An owner that operates for profit is allowed up to two machines at a single location. An owner that meets the requirements of Iowa Code section 99B.7(1) "m" is allowed up to four machines at a single location is as defined in Iowa Code section 99B.51.~~

*"Registered amusement device"* means an electrical or mechanical amusement device in operation subject to registration by the department pursuant to Iowa Code section ~~99B.10(1) "f"~~ 99B.53 and includes both the external and internal components. Any change in the registered amusement device, including the external and internal components of the registered amusement device, constitutes a new registered amusement device for which registration by the owner is required. The word "change" as used herein does not include repairs or replacement of parts that do not change or alter the operation of

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

the device as originally registered by the owner. If the repairs or replacement parts alter the operation of the device as originally registered, then the device must be reregistered before it is made available for operation.

*“Responsible party,”* as listed on the amusement device registration, means the owner of the amusement ~~device(s)~~ device.

ITEM 11. Amend subrule 105.2(6) as follows:

**105.2(6)** The registered amusement device shall be registered in accordance with these rules and shall comply with all of the requirements of Iowa Code section ~~99B.10~~ 99B.53, this chapter, 481—Chapter 104, and any other applicable laws or rules.

ITEM 12. Amend subrule 105.2(8) as follows:

**105.2(8)** If the department, or the department’s designee, determines that a registered amusement device is not in compliance with the requirements of this chapter or any other provision of Iowa law, the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, ~~manufacturer’s representative~~, distributor, or owner, may be revoked or suspended.

ITEM 13. Adopt the following new subrule 105.2(15):

**105.2(15)** A registered amusement device shall not allow for more than one player. Each playing position constitutes one amusement device.

ITEM 14. Amend rule 481—105.5(99B), introductory paragraph, as follows:

**481—105.5(99B) Registration by a manufacturer, ~~manufacturer’s representative~~, distributor, or an owner that operates for profit.** A person engaged in business in Iowa as a manufacturer, a ~~manufacturer’s representative~~, a distributor, or an owner that operates for profit shall be registered with the department prior to engaging in business in Iowa. A person shall register under each of the categories that apply to the business to be conducted in Iowa and shall pay the designated fee for each category of registration.

ITEM 15. Amend subrule 105.5(1) as follows:

**105.5(1)** Each person that registers with the department shall pay an annual registration fee as follows:

- a. For a manufacturer ~~or manufacturer’s representative~~, \$2,500.
- b. For a distributor, \$5,000.
- c. For an owner of no more than ~~two~~ four registered amusement devices at a single location or premises that is not an a qualified organization, ~~that meets the requirements of Iowa Code section 99B.7(1)“m,”~~ \$2,500.

ITEM 16. Amend rule 481—105.6(99B), introductory paragraph, as follows:

**481—105.6(99B) Registration of registered amusement devices.** Each owner of an amusement device subject to registration by the department pursuant to Iowa Code section ~~99B.10(4)~~ 99B.53 shall obtain a registration. A registration issued pursuant to Iowa Code chapter 99B is required to offer a registered amusement device for use.

ITEM 17. Amend subrule 105.6(3) as follows:

**105.6(3)** A new registered amusement device must be obtained from a manufacturer, ~~a manufacturer’s representative or a distributor~~ that is registered with the department pursuant to Iowa Code section ~~99B.10A~~ 99B.56. A registered amusement device that has been placed on location and used may be obtained from a manufacturer, distributor or owner that is registered with the department pursuant to Iowa Code section 99B.56. A distributor or owner that ceases, for any reason, to be registered pursuant to Iowa Code section 99B.56 may sell any registered amusement devices in their possession within 12 months from the date registration ceases. For new machines all amusement devices new to the purchaser, proof of purchase, which includes the seller’s name, company name, and address, must accompany the application for registration of the machine amusement device.

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

The owner of the registered amusement device shall exercise due diligence in ensuring that the amusement device is in compliance with these rules and all laws governing such devices. Upon request by the department or the department's designee, any manufacturer, manufacturer's representative or distributor registered with the department, or any owner of a registered device, shall permit the inspection of any amusement device and shall make available for inspection all records, documents, and agreements pertaining to the amusement device.

ITEM 18. Amend subrule 105.6(4) as follows:

**105.6(4)** ~~An organization that meets the requirements of Iowa Code section 99B.7(1) "m" shall not permit or offer for use more than four registered amusement devices at any single premises. Organizations that meet the Iowa Code section 99B.7(1) "m" requirements under Section 501(c) of the Internal Revenue Code shall provide a copy of the exemption approval letter from the Internal Revenue Service. All other persons shall not permit or offer for use more than two registered amusement devices at any single premises. The single premises where the registered amusement device(s) is located shall have a Class "A," Class "B," Class "C," special Class "C," or Class "D" liquor control license or a Class "B" or a Class "C" beer permit issued pursuant to Iowa Code chapter 123. New registrations shall not be issued to devices to be located at premises with Class "B" or Class "C" beer permits. No more than four registered amusement devices shall be permitted or offered for use at any single premises.~~

a. A registered amusement device may be located on premises for which a Class "A," Class "B," Class "C," special Class "C," or Class "D" liquor control license has been issued pursuant to Iowa Code chapter 123.

b. A registered amusement device may be located on the premises for which a Class "B" or Class "C" beer permit has been issued pursuant to Iowa Code chapter 123, but new registrations shall not be issued to devices to be located at premises with Class "B" or Class "C" beer permits.

(1) A registered amusement device at a location for which only a Class "B" or Class "C" beer permit has been issued pursuant to Iowa Code chapter 123 may only be relocated to a location for which a Class "A," Class "B," Class "C," special Class "C," or Class "D" liquor license has been issued and shall not be transferred, assigned, sold or leased to another person for which only a Class "B" or Class "C" beer permit has been issued pursuant to Iowa Code chapter 123.

(2) If ownership of the location changes, the Class "B" or Class "C" beer permit does not lapse, and the registered amusement device is not removed from the location, the device may remain at the location.

ITEM 19. Amend subrule 105.6(5), introductory paragraph, as follows:

**105.6(5)** Each electrical or mechanical amusement device required to be registered pursuant to Iowa Code section ~~99B.10~~ 99B.53 shall include on the amusement device a counting mechanism.

ITEM 20. Rescind subrule 105.6(6) and adopt the following **new** subrule in lieu thereof:

**105.6(6)** The owner of the registered amusement device shall exercise due diligence in ensuring that the amusement device is in compliance with these rules and all laws governing such devices. Upon request by the department or the department's designee, any manufacturer or distributor registered with the department or any owner of a registered device shall permit the inspection of any amusement device and shall make available for inspection all records, documents, and agreements pertaining to the amusement device.

ITEM 21. Amend rule 481—105.7(99B) as follows:

**481—105.7(99B) Violations.** Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. Conviction for illegal gambling may result under the provisions of Iowa Code chapter 725.
2. Suspension or revocation of a wine or beer permit or of a liquor license may result under the provisions of Iowa Code chapter 123.
3. Property may be forfeited under the provisions of Iowa Code chapter 809.
4. Violation of any laws pertaining to gambling may result in suspension or revocation of a registration as prescribed in Iowa Code section ~~99B.10B~~ or ~~99B.10C~~ 99B.55.

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

5. Unless otherwise prescribed in Iowa Code section ~~99B.10B or 99B.10C~~ 99B.55, a registration may be revoked upon the violation of any gambling law, rule or regulation including Iowa Code chapter 99B, 481—Chapter 104, or this chapter.

6. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B.

7. A person under the age of 21 shall not participate in the operation of an electrical or mechanical amusement device that is required to be registered. A person who violates the provisions of Iowa Code section ~~99B.10C(1)~~ 99B.57 commits a scheduled violation under Iowa Code section 805.8C(4).

ITEM 22. Amend rule **481—105.9(10A,99B,82GA,SF510)**, parenthetical implementation statute, as follows:

**481—105.9(10A,99B,82GA,SF510) Procedure for denial, revocation, or suspension of a registration.**

ITEM 23. Amend subrule 105.11(1), introductory paragraph, as follows:

**105.11(1)** The department shall consider the following factors in determining whether to approve or deny an application for registration of an amusement device, a manufacturer, a distributor, or an owner, ~~or a manufacturer's representative:~~

ITEM 24. Amend paragraph **105.11(1)“a”** as follows:

*a.* The applicant and responsible person's history of compliance with Iowa Code sections ~~99B.10, 99B.10A and 99B.10B~~ 99B.51 to 99B.60 and with other gambling laws and rules.

ITEM 25. Amend **481—Chapter 105**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~99B.10, 99B.10A, 99B.10B, and 99B.10C~~ 99B.1, 99B.2 and 99B.51 to 99B.60.

**ARC 3049C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 99B.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 107, “Game Nights,” Iowa Administrative Code.

A substantial update and revision to Iowa Code chapter 99B, “Social and Charitable Gambling,” resulted from 2015 Iowa Acts, chapter 99 (Senate File 482). The Act added to Iowa Code chapter 99B detailed requirements for game nights now found in Iowa Code sections 99B.26 and 99B.62. With these new provisions in the Iowa Code, the Department has concluded that it is unnecessary at this time to add the same requirements from these Iowa Code sections to the administrative rules in Chapter 107. Therefore, this amendment proposes to rescind and reserve Chapter 107.

The Department does not believe that the proposed amendment imposes any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 30, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

After analysis and review of this rule making, no impact on jobs has been found. This amendment is intended to implement Iowa Code section 99B.2. The following amendment is proposed.

Rescind and reserve **481—Chapter 107**.

**ARC 3046C****NURSING BOARD[655]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, “Licensure to Practice—Registered Nurse/Licensed Practical Nurse,” and to rescind Chapter 5, “Continuing Education,” Iowa Administrative Code, and to adopt a new Chapter 5 with the same title.

The proposed amendments to Chapter 3:

- Require licensees (endorsements, reactivations, foreign-educated, and requests for temporary) to provide proof of active licensure in any jurisdiction within the previous five years of the date of application.
- Add the requirement of a nurse refresher course for licensees who have not been actively licensed in any jurisdiction within the previous five years.
- Change the requirement for reactivating an inactive license by requiring that proof of 36 contact hours, instead of 12 contact hours, of continuing education (CE) be provided.

The proposed changes included in new Chapter 5:

- Clarify existing definitions.
- Add definitions.
- Change the contact hour measurement from 50 minutes to 60 minutes.
- Make the content regarding contact hours clearer and include the content in both the provider and the licensee sections of the chapter.
- Require licensees to complete 36 contact hours of CE regardless of the licensure term (e.g., a two-year or three-year license).
- Allow licensees to utilize CE earned through the entire renewal period.
- Expand the list of acceptable approved providers.
- Add that American Nurses Credentialing Center (ANCC) providers without Iowa approval may offer coursework in Iowa without the cosponsorship of an Iowa approved provider.
- Remove the restriction that webinars from out of state must be cosponsored by Iowa approved providers.
- Provide specific lists of acceptable courses by which to earn CE.
- Condense the provider portion of the rule.
- Remove the approved provider application and renewal procedures.
- Provide criteria regarding what is and what is not acceptable for nursing CE.
- Reorder the provider sections of the chapter for better flow.
- Change the number of attempts for application as an approved provider from three attempts to two attempts within one year of filing.

Any interested person may make written comments or suggestions on or before May 30, 2017. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685; or e-mailed

## NURSING BOARD[655](cont'd)

to [rules.comments@iowa.gov](mailto:rules.comments@iowa.gov). Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256 or at the Board office at 400 S.W. 8th Street, Des Moines, by appointment.

Also, there will be a public hearing on May 30, 2017, at 8:30 to 10:30 a.m. at the Board of Nursing office, 400 S.W. 8th Street, Suite B, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of these amendments.

These amendments were approved by the Board on January 11, 2017.

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

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

These amendments are intended to implement Iowa Code chapters 17A, 147, 152, and 272C.

The following amendments are proposed.

ITEM 1. Amend rule 655—3.5(17A,147,152,272C) as follows:

**655—3.5(17A,147,152,272C) Licensure by endorsement.**

**3.5(1)** No change.

**3.5(2)** *Applicants currently licensed in another state.* Application for licensure to practice as a registered nurse or licensed practical nurse by endorsement shall be made according to the following process:

*a.* The board shall:

(1) Provide application forms and instructions to applicants upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, ~~and~~ verification of license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®), and proof of active licensure in any jurisdiction within the previous five years of the date of application or proof of completion of a board-approved nurse refresher course taken within the previous 12 months of the date of application.

*b.* The applicant shall:

(1) to (5) No change.

(6) Provide proof of active licensure in any jurisdiction within the previous five years of the date of application or proof of completion of a board-approved nurse refresher course taken within the previous 12 months of the date of application.

~~(6)~~ (7) Attest that Iowa is the primary state of residence if the applicant is changing primary state of residence from another party state as outlined in rule 655—16.2(152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.

~~(7)~~ (8) Complete the application process within 12 months from the date of receipt of the application. The board reserves the right to destroy the documents after 12 months.

*c. to e.* No change.

**3.5(3)** *Application—individuals educated and licensed in another country.*

*a.* The board shall:

(1) Provide application forms and instructions to applicants upon request.

(2) Determine eligibility of each applicant upon receipt of an application, two completed fingerprint cards and a signed waiver form, fees, official nursing transcript denoting date of graduation validated by CGFNS International, validation of licensure/registration in the original country by CGFNS International, Credentials Evaluation Service Professional report from CGFNS International, ~~and~~ verification of original license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®), and proof of active licensure in any jurisdiction within the previous five years of the date of application or proof of completion of a board-approved nurse refresher course taken within the previous 12 months of the date of application.

*b.* The applicant shall:

(1) Submit a completed application for licensure by endorsement, including two completed fingerprint cards, ~~and~~ a signed waiver form to facilitate a national criminal history background check,

## NURSING BOARD[655](cont'd)

and proof of active licensure in any jurisdiction within the previous five years of the date of application or proof of completion of a board-approved nurse refresher course taken within the previous 12 months of the date of application.

(2) to (7) No change.

**3.5(4) Temporary license.** A temporary license shall be issued to an applicant who is licensed in another state if the applicant meets the qualifications for a license as outlined in subrule 3.3(1). The application form and endorsement fee plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C), verification of license form, proof of active licensure in any jurisdiction within the previous five years of the date of application or proof of completion of a board-approved nurse refresher course taken within the previous 12 months of the date of application, and two completed fingerprint cards and signed waiver form to facilitate a national criminal history background check shall be on file in the office of the board prior to the issuance of the temporary license.

a. to e. No change.

**3.5(5)** No change.

This rule is intended to implement Iowa Code sections 147.2 and 152.9.

ITEM 2. Amend rule 655—3.7(17A,147,152,272C) as follows:

**655—3.7(17A,147,152,272C) License cycle.**

**3.7(1) to 3.7(4)** No change.

**3.7(5) Inactive status.** The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card or when the board office has been notified by another compact state that a licensee has declared a new primary state. Pursuant to 655—subrule 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

a. to c. No change.

d. To reactivate the license, the licensee shall complete the reactivation requirements.

(1) No change.

(2) The licensee shall provide proof of active licensure in any jurisdiction within the previous five years of the date of application.

~~(2) (3)~~ The licensee shall have obtained ~~12~~ 36 contact hours of continuing education, as specified in 655—Chapter 5, within the ~~12~~ 36 months prior to reactivation.

~~(3) (4) Upon receipt of the completed~~ After completion of the reactivation application requirements, required continuing education materials, two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, fees for both the reactivation and the criminal history background check and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the licensee’s birth month. The board staff may issue a certificate of license prior to receipt of a report on the applicant from the DCI/FBI.

(5) An applicant who has not held active licensure in any jurisdiction in the previous five years shall be required to complete a board-approved nurse refresher course. The board-approved nurse refresher course will be accepted if completed within the previous 12 months of the date of application.

(4) (6) An applicant who fails to complete the reactivation of licensure process within 12 months from the date of initial application must reapply. All fees are nonrefundable.

**3.7(6) and 3.7(7)** No change.

This rule is intended to implement Iowa Code sections 147.2 and 147.9 to 147.11.

ITEM 3. Rescind 655—Chapter 5 and adopt the following new chapter in lieu thereof:

CHAPTER 5  
CONTINUING EDUCATION

## NURSING BOARD[655](cont'd)

**655—5.1(272C) Definitions.**

“*Academic offering*” means an extension course, independent study, or other course which is offered for academic credit or audit by an accredited institution of higher education.

“*Approved provider*” means a person, organization, or institution that holds an Iowa approved provider number and has met the criteria specified in subrule 5.3(4).

“*Approved provider number*” means the board-assigned number which identifies an Iowa approved provider.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period; or the selection of Iowa approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

“*Certification*” means evidence of advanced credentials earned by a licensee who has met all eligibility criteria.

“*Continuing education*” means planned, organized learning activities which are designed to maintain, improve, or expand nurses’ knowledge and skills or to develop new knowledge and skills relevant to nursing for the enhancement of practice, education, administration, or theory development.

“*Continuing education credit*” means contact hours or continuing education units (CEUs) to show evidence of course attendance.

“*Extended course*” means an organized program of study offered in a series of sessions.

“*Informal offering*” means a workshop, seminar, webinar or online course, institute, conference, lecture, extended course, provider-designed self-study, or learner-designed self-study which is offered for credit in contact hours or continuing education units.

“*Learner-designed self-study*” means lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems in which the learner takes the initiative and the responsibility for assessing, planning, implementing, and evaluating an educational activity under the guidance of an Iowa approved provider.

“*Nonapproved provider*” means a person, organization, or institution that does not hold an Iowa approved provider number. The board may recognize credit from nonapproved providers as specified in subrule 5.2(7).

“*Practicum*” means a course-related, planned and supervised clinical experience which includes clinical objectives and assignment to practice in a laboratory setting or with patients/clients/families for attainment of the objectives.

“*Provider-designed self-study*” means a program that the provider designs for the nurse to complete at the nurse’s own pace, e.g., home study, programmed instruction.

**655—5.2(272C) Continuing education—licensees.**

**5.2(1) Board authority.** The board derives its authority under Iowa Code chapter 272C to establish continuing education requirements as a prerequisite to obtain a current license and to establish an audit system to ensure compliance.

**5.2(2) Requirements.** To renew a license, the licensee shall verify the completion of 36 contact hours or 3.6 CEUs of credit or an exemption to the continuing education requirements. The hours shall be completed between the effective date and the expiration date of the license. The cost of continuing education is the responsibility of the licensee.

**5.2(3) Accumulating hours or credit.**

a. Units of measurement used for continuing education courses shall be as follows:

(1) One contact hour = 60 minutes of didactic instruction, work on learner-designed self-study, and clinical or laboratory practicum in an informal offering.

(2) One CEU = 10 contact hours.

(3) One academic semester hour = 15 contact hours.

(4) One academic quarter hour = 10 contact hours.

## NURSING BOARD[655](cont'd)

b. Continuing education credit will not be accepted for the same course more than once within a license period.

c. Continuing education credit shall not be carried over to a future license period.

d. Approved make-up credit shall not be used more than once.

**5.2(4) Appropriate subject matter.**

a. Appropriate subject matter for continuing education credits reflects the educational needs of the nurse learner and the health needs of the consumer. Appropriate subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

- (1) Nursing practice related to health care of patients/clients/families in any setting.
- (2) Professional growth and development related to nursing practice roles with a health care focus.
- (3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.
- (4) Social, economic, ethical and legal aspects of health care.
- (5) Management of or administration of health care, health care personnel, or health care facilities.
- (6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

- (1) Self-help and self-care that are not scientifically supported.
- (2) Cardiopulmonary resuscitation and basic life support classes.
- (3) Orientation in-service activities.

c. Academic offerings shall meet the qualifications of appropriate subject matter as specified above or meet the requirements of a nursing education program which extends beyond the education completed for the original nursing license. The licensee shall retain a transcript exhibiting a passing grade for each academic offering.

**5.2(5) Options for continuing education.** The following are options to complete continuing education requirements:

a. Informal offerings by the following entities:

- (1) Board-approved providers.
- (2) Other approved providers from state boards of nursing that have mandatory continuing education requirements.
- (3) American Nurses Credentialing Center (ANCC) Commission on Accreditation.
- (4) National League for Nursing (NLN).
- (5) National Federation of Licensed Practical Nurses Continuing Education (NFLPN) and the NFLPN Education Foundation.
- (6) National Association for Practical Nurse Education and Service, Inc. (NAPNES).

b. National certification or recertification which is related to the practice of nursing and is current at the time of a license renewal. The national certification or recertification shall be recognized as 36 contact hours of continuing education.

c. Completion of a board-approved nurse refresher course. Hours of participation will be recognized as contact hours of continuing education.

d. Participation as a preceptor for a nursing student or employee transitioning into a new clinical practice area, for a minimum of 120 hours in a one-to-one relationship as part of an organized preceptorship program. A licensee shall maintain documentation issued by the institution supervising the student or employee demonstrating the objectives of the preceptorship and the hours completed. A preceptorship shall be recognized as 12 contact hours of continuing education.

e. Completion of a nurse residency program. A residency program shall be recognized as 36 contact hours of continuing education.

f. Academic offerings provided by the following entities:

- (1) Community colleges.
- (2) Public and private colleges and universities.
- (3) Governmental academies.

## NURSING BOARD[655](cont'd)

**5.2(6) Documentation.** Licensees are required to keep the following documentation, as applicable, for a period of four years: certificates of attendance, letters verifying special approval for informal offerings from nonapproved providers, transcripts, proof of certification and documentation of compliance with an exemption. The certificates of attendance shall include licensee name, course date, course title, awarded hours, and provider approval information.

**5.2(7) Special approval process.** An informal offering from a nonapproved provider or an organization not specified in subrule 5.2(5) shall be accepted when the offering is specially approved by the board for an individual licensee. A licensee shall obtain special approval from the board staff, prior to the completion of the licensure period, in order to receive credit acceptable to fulfill the requirements. Special approval requires submission of a completed application and a brochure, advertisement, or course description and a certificate of attendance for the offering. Course content shall meet the qualifications of appropriate subject matter as specified in subrule 5.2(4). The licensee shall retain the approval letter from the board staff and the certificate of attendance received from the nonapproved provider. A denial of approval may be appealed to the board within 30 days of the denial.

**5.2(8) Exemptions to continuing education.** A licensee shall be exempt from continuing education requirements if the licensee:

*a.* Served honorably on active duty in the United States military services during the license period. A licensee who claims this exemption shall retain evidence of active duty to be presented upon request.

*b.* Possesses a current license to practice in another state that has mandatory continuing education requirements, so long as the license is active and the licensee resides in a state other than Iowa at the time of renewal or reactivation.

*c.* Worked as a registered nurse or licensed practical nurse for the government or foreign service or in missionary work, if the licensee was assigned to duty outside of the United States during the relevant time period. A licensee who claims this exemption shall retain evidence of employment outside of the United States to be presented upon request.

*d.* Had a physical or mental disability or illness during the relevant time period and applied for an extension of time to complete continuing education requirements or for a medical exemption from the continuing education requirements. An application is available upon request and requires the signature of a health care provider who can attest to the existence of a disability or illness during the license period. The application form shall be submitted prior to license expiration. A licensee shall not claim an extension of time or exemption from continuing education requirements on a license renewal application pursuant to this rule unless and until the licensee has received approval. A licensee who obtains approval shall retain a copy of the written approval to be presented upon request.

**5.2(9) Failure to meet requirement or qualify for an exemption.** A licensee who fails to meet continuing education requirements or qualify for an exemption prior to license expiration cannot renew the license and has the following options:

*a.* Complete the continuing education requirements or qualify for an exemption during the late renewal period. The licensee may be required to submit to an audit of continuing education following the late renewal and may be reaudited in the next renewal period when late credit has been accepted. Continuing education credit shall not be used more than once.

*b.* If the licensee does not renew within 30 days after license expiration, the license shall be placed on inactive status. An inactive license may be reactivated pursuant to 655—subrule 3.7(5).

**5.2(10) Audit of licensees.** The board may select licensees for audit following a period of licensure.

*a.* The licensee must submit verification of compliance with continuing education requirements or of exemptions for the period of licensure being audited. Verification for satisfactory completion of the audit includes legible copies of certificates of attendance, transcripts, proof of certification, documentation of special approval of informal offerings from nonapproved providers, documentation of compliance with exemptions in subrule 5.2(8), or other appropriate documentation.

*b.* The licensee must submit verification of completion of the mandatory reporter training course approved by the Iowa department of public health in the previous five years as specified in 655—subrule 3.7(3).

## NURSING BOARD[655](cont'd)

c. Verification must be submitted within 30 days after the date of the audit notification. An extension of time may be granted on an individual basis.

d. If submitted materials are incomplete or unsatisfactory, the licensee shall be notified. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is within 90 days of the board office notification. The licensee may be reaudited during the next renewal period when make-up credit has been accepted. The make-up credit shall not be reused for the current renewal period.

e. The board shall notify the licensee of satisfactory completion of the audit.

f. Failure to complete the audit satisfactorily or falsification of information may result in board action as described in 655—Chapter 4.

g. Failure to notify the board of a current mailing address will not absolve the licensee of the audit requirement.

**655—5.3(272C) Continuing education—providers.**

**5.3(1) Board authority.** The board derives its authority under Iowa Code chapter 272C to establish requirements for becoming an Iowa approved provider and maintaining that status. The board also has the authority to audit approved providers.

**5.3(2) Initial approval process for providers.** Initial approval is granted upon the submission of required materials and the determination by the board or its representative that the materials fulfill the criteria for approved providers specified in subrule 5.3(4).

a. An application for Iowa provider approval, including the procedural instructions and requirements, is available on the board's Web site.

b. Upon receipt of three copies of the completed application materials, a review is held by a committee composed of at least three appointees of the board.

(1) The review is held at the board office within 60 days of receipt of the application.

(2) The committee review is based on the criteria specified in subrule 5.3(4).

(3) If the submitted materials meet the requirements, the committee shall approve the provider for five years and issue a provider number to the provider. The approved provider shall be notified by staff of the decision within two weeks of the committee review.

(4) If the committee finds submitted materials are incomplete or unsatisfactory, staff shall notify the provider applicant of the decision within two weeks of the committee review. The applicant is given the opportunity to meet the criteria and for an additional review to be held at the board office within six weeks of receipt of the revised application materials.

(5) If the applicant is unable to meet the criteria within two committee reviews or one year from the receipt of the initial application at the board office, whichever comes first, the committee shall recommend nonapproval at the next regularly scheduled board meeting.

(6) Notice of this recommendation of nonapproval shall be provided to the applicant by staff at least 30 days before the board meeting.

(7) The board shall make a decision regarding each recommendation of nonapproval at a board meeting.

c. A provider applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

d. A provider applicant who has been denied approved provider status may apply no sooner than one year after denial to become an approved provider by starting the initial approval process.

**5.3(3) Reapproval process for approved providers.** Reapproval is granted upon the submission of required materials and the determination by the board or its representatives that the materials fulfill the criteria for approved providers specified in this chapter.

## NURSING BOARD[655](cont'd)

a. The board staff shall send an application for reapproval to an approved provider six months before the expiration of the current approval. The completed application shall be submitted to the board office no later than three months prior to the expiration of the current approval.

b. Upon receipt of the application for reapproval, a review shall be made by board staff at the board office within 30 days of receipt of the application.

(1) The review is based on the criteria specified in subrule 5.3(4).

(2) If the submitted materials meet the requirements, staff shall issue a renewal of the approved provider status for a five-year period.

(3) If the submitted materials are incomplete or unsatisfactory, staff shall notify the provider of the decision within two weeks of the review. The provider shall be given the opportunity to meet the criteria within 30 days of the receipt of the board office notification. If the provider is unable to meet the requirements, staff shall recommend nonapproval at the next regularly scheduled board meeting.

(4) Notice of this recommendation of nonapproval shall be provided to the applicant at least 30 days before the board meeting.

(5) The board shall make a decision regarding each recommendation of nonapproval at the board meeting.

(6) A renewal applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

(7) A reapproval applicant who has been denied reapproval may reapply no sooner than one year after denial. The initial approval process must be followed to reapply.

**5.3(4) Criteria for approved providers.** Approved providers shall adhere to criteria indicative of quality continuing education for nurses. Provider approval applies to all programs regardless of geographic location.

a. Criteria related to appropriate subject matter. Appropriate subject matter for continuing education credits reflects both the educational needs of the nurse learner and the health needs of the consumer. Subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

(1) Nursing practice related to health care of patients/clients/families in any setting.

(2) Professional growth and development related to nursing practice roles with a health care focus.

(3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.

(4) Social, economic, ethical and legal aspects of health care.

(5) Management of or administration of health care, health care personnel, or health care facilities.

(6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

(1) Self-help or self-care that is not scientifically supported.

(2) Cardiopulmonary resuscitation and basic life support classes.

(3) Orientation in-service activities.

c. Criteria related to operation of an approved continuing education providership. The provider shall:

(1) Have a consistent, identifiable authority who has overall responsibility for the operation of the providership. The authority shall be knowledgeable in administration and have the capability to organize, execute, and evaluate the overall operations of the providership.

(2) Have an organizational chart to delineate lines of authority and communication within the providership, including any other cooperative or advisory committees. The organizational chart must illustrate the reporting structure of the providership within the parent organization, if applicable.

## NURSING BOARD[655](cont'd)

(3) Develop and implement mission, vision and values statements specific to the providership, and a strategic plan for their implementation.

(4) Maintain financial integrity so that participants receive the continuing education for which they have paid.

(5) Maintain participant and program records.

(6) Demonstrate and guarantee active nursing participation in the planning and administration of informal offerings. Nursing participation shall be documented in a written statement of policy, in denotation on the organizational chart, and in planning minutes.

(7) Develop a subject matter plan which indicates the mechanism of assessing the practice gaps of the nurse learner and describes how the provider shall meet the appropriate subject matter criteria as specified in subparagraphs 5.3(4) "a"(1) to (6).

(8) Demonstrate planning for each offering that includes a statement of purpose and measurable and observable learning outcomes. The outcomes shall address the educational needs and shall result in narrowing or closing the identified practice gap(s).

(9) Provide notification to licensees of the availability of informal offerings. A brochure or written advertisement shall be developed for all informal offerings other than learner-designed self-study, and an electronic copy shall be sent to the board prior to each offering. The brochure or written advertisement shall accurately describe the activities by including the date, time, and location of the informal offering, a statement of purpose, educational objectives, the intended audience, credentials of instructors, the amount of continuing education credit to be awarded, and, if applicable, costs and items covered by the fee and refund policy. The board-approved provider number shall appear on the brochure or written advertisement.

(10) Structure the program content and learning experience to relate to the stated purpose and objectives. Program content shall cover one topic or a group of closely related topics. Current, relevant, scientifically based supportive materials shall be used.

(11) Develop policies and procedures for verification of satisfactory completion of the activity by each participant. Policy shall include a system for verification of satisfactory completion, the control methods to ensure completion and a method to inform participants that completion of the offering is required prior to the awarding of credit. The provider may make an exception and award partial credit in extreme emergency conditions. The provider may award credit to other members of the providership who attend but do not serve as organizers during the actual offering. The provider may base the verification of satisfactory completion of an extended course on the participant's meeting the course objectives rather than on the number of sessions attended. The provider may award credit to a nurse for learner-designed self-study such as lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems.

(12) Develop policies and procedures for management of continuing education programs, including registration procedures, tuition refund, and enrollee grievances.

(13) Assign credit according to a uniform measure of credit: One contact hour equals 60 minutes. Credit shall not be awarded for courses less than one contact hour.

(14) If desired, cosponsor an offering provided by a nonapproved provider. When cosponsoring is pursued, the approved provider is responsible for ensuring that all criteria are met. A cosponsorship contract or letter of agreement shall delineate responsibilities of all parties, which include the approved provider awarding the credit and maintaining the program and participant records. Cosponsoring is not acceptable for learner-designed self-study.

(15) An approved provider shall notify the board within 30 days of changes in the administrative authority or address of the providership, or the provider's inability to meet the approved provider criteria.

*d.* Criteria related to record system and maintenance of continuing education programs. The provider shall:

(1) Maintain participant records for a minimum of four years from the date of program completion. The participant records shall include the name of the licensee, license number, contact hours awarded, titles of offerings, and dates of offerings. The record system policy and procedure shall provide for secure

## NURSING BOARD[655](cont'd)

storage and retrieval of the participant records, shall limit employee access and shall describe security measures. Upon request from an individual nurse or the board, individual attendance and information regarding each offering shall be available within two weeks after the request. If individual nurses are assessed a fee for this retrieval service, the fee shall be specified. The board may not be charged for record retrieval requests.

(2) Maintain program records for a minimum of four years from the date of program completion. Program records for all informal offerings, other than learner-designed self-study, shall include a brochure or advertising, roster of participants to whom credit was awarded, and a summary of the program including participant and provider evaluations. The approved provider shall submit records for one informal offering in the most recent year for renewal of the approved provider status. Program records for learner-designed self-study shall include the written agreement between the learner and provider, date of completion, and learner and provider evaluations.

(3) Furnish a certificate to each participant documenting the date the credit was earned. The front of the certificate shall display: participant's name, provider number, contact hours awarded, date(s) of the offering, program title, and a reminder to the participant to retain the certificate for four years. A certificate issued by electronic means must be a print-only file.

*e.* Criteria related to faculty who teach informal offerings. The faculty shall:

(1) Be current, knowledgeable, and skillful in the subject matter of the offering by supplying evidence of further education in the subject. Such education shall be acquired through course completion or an advanced degree, experience in teaching in the specialized area within the three years preceding the offering, or one year of work experience in the specialized area within the three years preceding the offering.

(2) If applicable, be skillful in assisting a nurse in designing a learner-designed self-study program by having experience or education in course design.

(3) Include an actively licensed nurse if the subject matter is nursing or if the informal offering is learner-designed self-study.

(4) Utilize teaching methodologies appropriate to the subject, audience, and time allotment.

(5) Utilize current supportive materials by drawing from resources that are predominantly less than five years old unless the topic is of an historical nature.

(6) Not receive credit when teaching participants unless the faculty is presenting the offering for the first time. Faculty may receive partial credit for other presentations attended as part of the same offering.

(7) Not receive credit for learner-designed self-study from a provider which employs the faculty in the regular administration of the providership.

*f.* Criteria related to evaluation of continuing education programs. The provider shall include:

(1) A design for participants to assess achievement of program objectives, faculty effectiveness, and teaching-learning methodologies, resources and facilities for each offering.

(2) A summary evaluation process to assess the effectiveness of the offering and identify how results may be used to plan future offerings.

(3) A method of notifying the participants that the evaluation may be submitted directly to the board.

**5.3(5) *Voluntary relinquishment of an approved providership.*** An approved provider may voluntarily relinquish its provider number in one of two ways: Method one is to notify the board in writing that it no longer wants to be an Iowa approved provider. Method two is when an approved provider does not submit the required materials for reapproval or is unable to be located by the board, by certified mail, the board will consider that the provider has voluntarily relinquished its approved provider status.

*a.* When the approved providership has been voluntarily relinquished, the provider shall discontinue providing continuing education as an Iowa approved provider.

*b.* The provider shall maintain the records as required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

## NURSING BOARD[655](cont'd)

*c.* The board staff shall notify other states which have mandatory nursing continuing education of the relinquishment of the approved provider status and the reason(s) for relinquishment.

*d.* The provider whose approved provider status has been voluntarily relinquished may apply to become an approved provider by starting the initial approval process.

**5.3(6) *Audit of approved providers.*** The board shall monitor approved providers for adherence to criteria as established in this chapter.

*a.* The board may order an audit of an approved provider or may audit as a result of a written complaint. A written complaint may be filed with the board against a provider for acts or omissions which indicate a failure to meet the criteria established in this chapter.

*b.* The board may revoke the approved-provider status for willful or repeated failure to meet one or more of the criteria specified in subrule 5.3(4).

*c.* A notice of revocation shall be issued to the provider. A provider who wishes to appeal the board's decision regarding revocation shall file an appeal within 30 days of the board's decision of revocation. A timely appeal shall initiate a contested case proceeding regarding the provider's revocation. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

*d.* A provider whose approved-provider status has been revoked shall no longer advertise that the provider is an approved provider. The provider number shall no longer be used or appear in brochures, advertisements, certificates, or other materials.

*e.* A provider whose approved-provider status has been revoked shall maintain the records required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

*f.* The board shall notify other states that have mandatory nursing continuing education of the revocation of the approved-provider status and the reason(s) for revocation.

*g.* A provider whose approved-provider status has been revoked may reapply no sooner than one year after the revocation of approval. The initial approval process must be followed to reapply.

These rules are intended to implement Iowa Code sections 272C.2 and 272C.3.

**ARC 3045C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 321.457(2)“n” and chapter 321E, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 511, “Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight,” and to rescind Chapter 513, “Compacted Rubbish Vehicle Permits,” Iowa Administrative Code.

The Department is proposing to amend Chapter 511 and to rescind Chapter 513. The necessary rules concerning compacted rubbish vehicle permits are being moved to Chapter 511. The proposed amendments to Chapter 511 add and amend definitions; correct an office name, telephone numbers and Web site addresses; update Iowa Code and Iowa Administrative Code citations; eliminate rule language that is duplicative of the Iowa Code; and bring the rules up to date with current Iowa Code language and Department practices.

The proposed amendments also:

- Add an exemption to subrule 511.3(2) for oversize snow removal equipment so that the equipment may be used when the roads are not clear of ice or snow and when visibility is poor.
- Update the methods used to issue and obtain permits to allow for an electronic format.

## TRANSPORTATION DEPARTMENT[761](cont'd)

- Increase the height limit for continuous movement to 14 feet 6 inches to promote interstate commerce and implement internal consistency with the Department's revised escort rule.
- Update the height and length requirements for vehicles traveling under an annual or all-systems permit with divisible loads of hay, straw or stover to comply with Iowa Code section 321E.29.
- Change the height limit for vehicles traveling under a multitrip permit with indivisible loads to 15 feet, 5 inches to be consistent with other annual permits.
- Remove the specific width and length requirements for vehicles traveling under a single-trip permit with indivisible loads and allow movement if the roadway and infrastructure support the vehicle.
- Increase the permit fees to coincide with changes made in Iowa Code section 321E.14.
- Allow for fees and costs to be paid by credit card. Eliminate inconsistent and outdated language concerning pertinent charge accounts.
- Allow for proof of liability insurance to be either written or electronic.
- Add language concerning the use of the vertical clearance map and road construction and travel restrictions map and detour and road embargo information within annual permit and all-systems permit rules.
- Change "construction machinery" to "special mobile equipment" to align with changes to Iowa Code chapter 321E.
- Clarify that a multitrip permit is for unlimited trips along a specific route between one point of origin and destination. Additional routes require a new permit.
- Update language concerning single-trip permits since the Department issues only one type of single-trip permit and the permit covers every type of indivisible load.
- Add a new rule concerning compacted rubbish vehicle permits and include the term "compacted rubbish" where applicable within the chapter.
- Make changes to the escort qualifications and responsibilities as follows: clarify that the escorting vehicle shall not be used to tow a trailer while performing escorting duties, remove the candlepower requirements, reduce the minimum visible distance to 500 feet due to new LED technology and Mid America Association of State Transportation Officials' requirements, and replace the table concerning minimum warning devices and escort requirements with a new table for clarity. The references to "sufficient shoulders" and the need for carriers to determine the roadway width have been omitted from the new table, and the new table provides simple two-lane and four-lane road requirements.
- Add a new rule to provide for economic export corridors for the transportation of goods or products manufactured in Iowa to or through South Dakota and for the return of unladen semitrailers or unladen full trailers used for the transportation of those goods or products to comply with Iowa Code section 321.457(2)"n."

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).
5. Be received by the Department's rules administrator no later than May 30, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, June 1, 2017, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

## TRANSPORTATION DEPARTMENT[761](cont'd)

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

These amendments are intended to implement Iowa Code sections 321.457(2) and 321.473 and chapter 321E.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Compacted rubbish vehicle,” “Indivisible load,” and “Rubbish” in rule **761—511.1(321E)**:

“*Compacted rubbish vehicle*” means any vehicle hauling rubbish that has been mechanically compacted with a hydraulic, electric, or air-operated ram.

“*Indivisible load*” means any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

1. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;
2. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or
3. Require more than eight work hours to dismantle using appropriate equipment. The applicant for an indivisible load permit has the burden of proof as to the number of work hours required to dismantle the load.

“*Rubbish*” means any unwanted or useless material that has no commercial or practical value or use and that would normally be discarded.

ITEM 2. Rescind the definition of “Sufficient shoulder width” in rule **761—511.1(321E)**.

ITEM 3. Amend rule **761—511.1(321E)**, definition of “Permit-issuing authority,” as follows:

“*Permit-issuing authority*” means the:

1. Department’s office of vehicle and motor carrier services for permits for movement on the primary road system.
2. Authority responsible for the maintenance of a nonprimary system of highways or streets for permits for movement on that system. However, the office of vehicle and motor carrier services may issue single-trip permits on primary road extensions in cities in conjunction with movement on the rural primary road system.

ITEM 4. Amend rule **761—511.1(321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321E.9, 321E.15, ~~321E.27~~, 321E.29, 321E.30 and 321E.34.

ITEM 5. Amend rule 761—511.2(321E) as follows:

**761—511.2(321E) Location and general information.**

**511.2(1)** Applications, forms, instructions and restrictions are available on the department’s Web site at [www.iowadot.gov](http://www.iowadot.gov) and by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3264; or by facsimile at (515)237-3257. Permits may be obtained electronically upon making application to the office of vehicle and motor carrier services.

**511.2(2)** and **511.2(3)** No change.

**511.2(4)** Except as provided in subrule 511.7(6) and rule ~~511.13~~ 761—511.14(321,321E), permits may be issued only for the transporting of a single article which exceeds statutory size or weight limits or both, and which cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:

a. to c. No change.

**511.2(5)** and **511.2(6)** No change.

This rule is intended to implement Iowa Code sections 17A.3 and ~~321E.1~~ 321E.2.

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 6. Amend rule 761—511.3(321E) as follows:

**761—511.3(321E) Movement under permit.**

**511.3(1)** No change.

**511.3(2)** Movement shall be made only when roads are clear of ice and snow and visibility is at least one-quarter mile. Snow removal equipment operating under permit is exempt from this restriction while snow removal operations are conducted. EXCEPTION: Nothing in this subrule shall be construed to mean that the movement of a compacted rubbish vehicle permitted under rule 761—511.11(321E) shall be subject to this restriction.

**511.3(3)** and **511.3(4)** No change.

~~**511.3(5)** The permit shall be carried in the cab of the vehicle for which it has been issued and shall be available for inspection at all times.~~

~~**511.3(6)** Vehicles and loads under permit shall be open to inspection by any peace officer or any authorized agent of any permit-issuing authority.~~

~~**511.3(7)**~~ **511.3(5)** Continuous moves. Vehicles and loads may travel by permit between one-half hour after sunset and one-half hour before sunrise if, in addition to the general provisions and general requirements specified by the permit, the following conditions are met.

a. Dimensions shall not exceed:

(1) No change.

(2) Height. 14 feet, 4 6 inches.

(3) and (4) No change.

b. and c. No change.

This rule is intended to implement Iowa Code sections ~~321E.1~~ 321E.2 and 321E.11.

ITEM 7. Amend rule 761—511.4(321E) as follows:

**761—511.4(321E) Permits.** Permits issued shall be in writing or in electronic format and may be either single-trip, multitrip, annual, annual oversize/overweight, compacted rubbish or all-systems permits.

**511.4(1) Methods of issuance.**

a. Permits for movement on the primary road system may be obtained in person, by facsimile, ~~wire service, electronic communication,~~ online, or by mail at the address in subrule 511.2(1).

b. No change.

**511.4(2) Forms.**

a. Applications for permits for movement on the primary road system shall be made ~~and permits shall be issued on departmental Forms 442009, 442047, 442051, 442058 and 442059~~ online or on a form prescribed by the department.

b. Any applications to other permit-issuing authorities made upon ~~Forms 442009, 442047, 442051, 442058 and 442059~~ department forms shall be sufficient and accepted as properly made by these authorities.

c. No change.

**511.4(3) Validity.**

a. Annual, annual oversize/overweight, compacted rubbish, and all-systems permits shall expire ~~on the last day of the month~~ one year from the date of issuance.

b. and c. No change.

**511.4(4)** No change.

This rule is intended to implement Iowa Code sections ~~321E.1 and~~ 321E.2 and 321E.3.

ITEM 8. Amend rule 761—511.5(321,321E) as follows:

**761—511.5(321,321E) Fees and charges.**

**511.5(1) Annual oversize permit.** A fee of ~~\$25~~ \$50 shall be charged for each annual permit issued pursuant to Iowa Code section 321E.8, payable prior to the issuance of the permit. Carriers purchasing annual permits in advance of use cannot return unused permits for refunds.

TRANSPORTATION DEPARTMENT[761](cont'd)

~~511.5(2)~~ 511.5(2) *Annual oversize permit for certain divisible loads.* A fee of \$25 shall be charged for each annual permit issued pursuant to Iowa Code section 321E.29, payable prior to the issuance of the permit. Only divisible loads of hay, straw, stover, or bagged livestock bedding are permitted under this permit.

~~511.5(2)~~ 511.5(3) *Annual oversize/overweight permit.* A fee of ~~\$300~~ \$400 shall be charged for each annual oversize/overweight permit, payable prior to the issuance of the permit. Transfer of current annual oversize/overweight permit to a replacement vehicle may be allowed when the original vehicle has been damaged in an accident, junked or sold.

~~511.5(3)~~ 511.5(4) *All-systems permit.* A fee of ~~\$120~~ \$160 shall be charged for each annual all-systems permit, payable prior to the issuance of the permit.

511.5(5) *Bridge-exempt permit.* A fee of \$25 shall be charged for each bridge-exempt permit issued pursuant to Iowa Code section 321E.7, payable prior to the issuance of the permit.

~~511.5(4)~~ 511.5(6) *Multitrip permit.* A fee of \$200 shall be charged for each multitrip permit, payable prior to the issuance of the permit. ~~Additional routes will require a new permit.~~

511.5(7) *Raw milk permit.* A fee of \$25 shall be charged for each raw milk permit issued pursuant to Iowa Code section 321E.29A, payable prior to the issuance of the permit.

~~511.5(5)~~ 511.5(8) *Single-trip permit.* A fee of ~~\$10~~ \$35 shall be charged for each single-trip permit, payable prior to the issuance of the permit.

511.5(9) *Compacted rubbish permit.* A fee of \$100 shall be charged for each compacted rubbish permit, payable prior to the issuance of the permit.

~~511.5(6)~~ 511.5(10) *Duplicate permit.* A fee of \$2 shall be charged for each duplicate permit, payable prior to the issuance of the permit.

~~511.5(7)~~ 511.5(11) *Registration fee.* A registration fee shall be charged for vehicles transporting buildings, except mobile homes and factory-built structures, on a single-trip basis. The vehicle shall be registered for the combined gross weight of the vehicle and load. The fee shall be 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel and shall be payable prior to the issuance of the permit. Fees shall not be prorated for fractions of miles.

~~511.5(8)~~ 511.5(12) *Fair and reasonable costs.* Permit-issuing authorities may charge any permit applicant:

*a. and b. No change.*

~~511.5(9)~~ 511.5(13) *Methods of payment.*

~~a.~~ Fees and costs required under this chapter ~~of rules~~ shall normally be paid by credit card, certified check, cashier's check, traveler's check, bank draft or cash. Personal checks may be accepted at the discretion of the permit-issuing authority.

~~b.~~ At the discretion of the permit-issuing authority, a payment procedure may be established to allow monthly billing for permits. The following procedures shall apply:

(1) ~~Applicants shall deposit sufficient funds with the permit-issuing authority to guarantee payment of fees for the average number of permits ordered monthly. Deposits may be used to pay outstanding fees due when payment is not received upon billing.~~

(2) ~~Monthly billings shall be sent to account holders.~~

(3) ~~All future permit activity may be suspended after written notice of suspension to the account holder when the following requirements are not met:~~

~~Payment shall be received within 30 days from the date of the billing.~~

~~All information listed on the account holder's permit shall match the information listed on the permit-issuing authority's permit.~~

(4) ~~Account privileges may be permanently canceled after written notice to the account holder when the requirements listed in paragraph 511.5(9) "b" are not met.~~

(5) ~~Any account holder in good standing may close the account and request return of the deposit. Accounts closed under these circumstances may be reopened.~~

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.14, 321E.29, and 321E.29A and 321E.30.

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 9. Amend paragraph **511.6(1)“a”** as follows:

*a.* Public liability insurance in the amounts of \$100,000 bodily injury each person, \$200,000 bodily injury each occurrence, and \$50,000 property damage with an expiration date to cover the tenure of the annual, annual oversize/overweight, all-systems, multitrip or single-trip permit shall be required. In lieu of filing with the permit-issuing authority, a copy of the current certificate of public liability insurance in these amounts shall be carried in the vehicle for which the permit has been issued. Proof of liability insurance may be either in writing or in electronic format.

ITEM 10. Amend rule 761—511.7(321,321E) as follows:

**761—511.7(321,321E) Annual permits.** Annual permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Detour and road embargo information may also be found online at: [www.511ia.org](http://www.511ia.org). Prior to making the move, the owner or operator shall contact the department by telephone at (515)237-3264 between 8 a.m. and 4:30 p.m., Monday through Friday, except for legal holidays, to verify that the owner or operator is using the most recent information. Annual permits are issued for the following:

**511.7(1)** Vehicles with indivisible loads, including ~~construction—machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. Distance.* Movement is allowed for unlimited distance; routing through the office of vehicle and motor carrier services is not required.

**511.7(2)** Vehicles with indivisible loads, including ~~construction—machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. Distance.* Movement is restricted to 50 miles unless trip routes are obtained from the office of vehicle and motor carrier services or the route continues on at least four-lane roads. Trip routes are valid for five days.

**511.7(3)** Vehicles with indivisible loads, including ~~construction—machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~761—511.12~~ 511.13(321,321E).

*e. Distance.* Trip routes must be obtained from the office of vehicle and motor carrier services.

**511.7(4)** No change.

**511.7(5)** Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. to g.* No change.

**511.7(6)** Vehicles with divisible loads of hay, straw ~~or~~, stover, or bagged livestock bedding provided the following are not exceeded:

*a.* No change.

*b. Length.* ~~Must comply with Iowa Code section 321.457~~ Statutory: 75 feet.

*c. Height.* Statutory: ~~13~~ 14 feet 6 inches.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e.* No change.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, ~~321E.1, 321E.2, 321E.3, 321E.8, 321E.10, 321E.28, 321E.29 and 321E.29A~~ and Iowa Code Supplement section ~~321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.~~

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 11. Amend subrule 511.8(1) as follows:

**511.8(1)** Vehicles with indivisible loads, including ~~construction machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. Routing.* The owner or operator shall select a route using a vertical clearance map, kip map, bridge embargo map and detour and road embargo map provided by the department. Detour and road embargo information may also be found ~~on the Internet~~ online at ~~www.511-ia.com~~ www.511ia.org. The owner or operator shall contact the department by telephone at ~~1-800-925-6469~~ (515)237-3264 between 8 a.m. and 4:30 p.m., Monday through ~~Thursday~~ Friday, except for legal holidays, ~~or at any other time at (515)237-3206~~ prior to making the move to verify that the owner or operator is using the most recent information.

ITEM 12. Amend rule ~~761—511.8~~**(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, ~~321E.1, 321E.2, 321E.3, 321E.28~~ and ~~Iowa Code Supplement section 321E.8~~ as amended by ~~2002 Iowa Acts, Senate File 2192, section 36.~~

ITEM 13. Amend rule ~~761—511.9~~(321,321E) as follows:

**761—511.9(321,321E) All-systems permits.** All-systems permits are issued by the office of vehicle and motor carrier services for indivisible vehicles or indivisible loads for travel on the primary road system and specified city streets and county roads when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The office of vehicle and motor carrier services will provide a list of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for the following:

**511.9(1)** Vehicles with indivisible loads, including ~~construction machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. Distance.* Movement is allowed for unlimited distance; routing through the office of vehicle and motor carrier services and city and county jurisdictions is not required.

**511.9(2)** Vehicles with indivisible loads, including ~~construction machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. Distance.* Movement is restricted to 50 miles unless trip routes are obtained from the office of vehicle and motor carrier services and city and county jurisdictions or the route continues on at least four-lane roads. Trip routes are valid for five days.

**511.9(3)** Vehicles with indivisible loads, including ~~construction machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. Distance.* Trip routes must be obtained from the office of vehicle and motor carrier services and city and county jurisdictions.

**511.9(4)** No change.

**511.9(5)** Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

*a. to c.* No change.

*d. Weight.* See rule ~~511.12~~ 761—511.13(321,321E).

*e. to g.* No change.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**511.9(6)** Vehicles with divisible loads of hay, straw ~~or~~ stover, or bagged livestock bedding provided the following are not exceeded:

- a. No change.
- b. *Length.* ~~Must comply with Iowa Code section 321.457~~ Statutory: 75 feet.
- c. *Height.* ~~Statutory: 13~~ 14 feet 6 inches.
- d. *Weight.* See rule ~~511.12~~ 761—511.13(321,321E).
- e. *Distance.* Movement is allowed for unlimited distance; routing through the office of vehicle and motor carrier services and city and county jurisdictions is not required.

**511.9(7)** No change.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, ~~321E.1, 321E.2, 321E.3, 321E.8, 321E.10, 321E.28 and 321E.29~~ and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

ITEM 14. Amend rule 761—511.10(321,321E) as follows:

**761—511.10(321,321E) Multitrip permits.** Multitrip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit shall be for unlimited trips along a specific routes route between points one point of origin and one point of destination. Additional routes will require a new permit. Multitrip permits are issued for the following:

**511.10(1)** Multitrip permits may be issued for vehicles with indivisible loads, including ~~construction machinery~~ special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

- a. and b. No change.
- c. *Height.* ~~Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility~~ 15 feet 5 inches.
- d. and e. No change.

**511.10(2)** Multitrip permits may be issued for all movements allowed under the single-trip permit provisions of rule ~~511.11~~ 761—511.12(321,321E) provided the movement is within the size and weight limitations of subrule 511.10(1).

**511.10(3)** No change.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, ~~321E.1, 321E.2, 321E.3 and 321E.9A~~ and 321E.28.

ITEM 15. Renumber rules ~~761—511.11(321,321E)~~ to 761—511.16(321,321E) as ~~761—511.12(321,321E)~~ to 761—511.17(321,321E).

ITEM 16. Adopt the following new rule 761—511.11(321E):

**761—511.11(321E) Compacted rubbish vehicle permits.** All compacted rubbish vehicle permits issued by the department shall be subject to the following:

**511.11(1)** Permits issued shall be in writing or in an electronic format, shall be carried in the vehicle for which the permit has been issued and shall be available for inspection by any peace officer or authorized agent of any permit-granting authority.

**511.11(2)** Movements by permit shall be allowed day and night, seven days a week including holidays.

**511.11(3)** Vehicles traveling under permit shall be registered for the gross weight or combined gross weight of the vehicle and load.

**511.11(4)** Vehicles under permit must be in compliance with posted bridge and road embargoes and speed limits.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**511.11(5)** Maximum axle weight allowed on the interstate system shall be 20,000 pounds on a single axle and 34,000 pounds on a tandem axle.

This rule is intended to implement Iowa Code section 321E.30.

ITEM 17. Amend renumbered rule 761—511.12(321,321E) as follows:

**761—511.12(321,321E) Single-trip permits.** Single-trip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit shall be for a specific route between an origin and destination. Single-trip permits are issued for the following:

~~**511.12(1)** Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:~~

~~a. *Width.* 14 feet 0 inches.~~

~~b. *Length.* 80 feet 0 inches overall.~~

~~c. *Height.* Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility.~~

~~d. *Weight.* See rule 511.12(321,321E).~~

~~e. *Distance.* Unlimited distance over specified routes.~~

~~**511.12(2)** Rescinded IAB 4/28/93, effective 6/2/93.~~

~~**511.12(3)** **511.12(1)** Vehicles with indivisible loads, including construction machinery special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:~~

~~a. *Width.* 40 feet 0 inches overall Limited to the maximum physical limitations and clearances of the roadway and infrastructure along the intended route of travel.~~

~~b. *Length.* 120 feet 0 inches overall Limited to the maximum physical limitations and clearances of the roadway along the intended route of travel.~~

~~c. No change.~~

~~d. *Weight.* See rule 511.12 761—511.13(321,321E).~~

~~e. No change.~~

~~**511.12(2)** Reserved.~~

~~**511.12(4)** Vehicles especially designed for the movement of grain bins and vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:~~

~~a. *Width.* Must comply with Iowa Code section 321.454.~~

~~b. *Length.* 120 feet 0 inches overall.~~

~~c. *Height.* Statutory: 13 feet 6 inches.~~

~~d. *Weight.* See rule 511.12(321,321E).~~

~~e. *Distance.* Unlimited distance over specified routes.~~

~~**511.12(5)** Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:~~

~~a. *Width.* 12 feet 5 inches.~~

~~b. *Length.* Must comply with Iowa Code section 321.457.~~

~~c. *Height.* Statutory: 13 feet 6 inches.~~

~~d. *Weight.* See rule 511.12(321,321E).~~

~~e. *Distance.* Unlimited.~~

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, ~~321E.1,~~ 321E.2, 321E.3, 321E.9, ~~321E.28~~ and 321E.29.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 18. Amend renumbered rule 761—511.13(321,321E) as follows:

**761—511.13(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.**

**511.13(1) Annual and all-systems permits.**

a. For movement under an annual or all-systems permit, the axle weight and combined gross weight shall not exceed the limits found in Iowa Code section ~~321.463~~ 321.463(3).

b. See subrule ~~511.12(5)~~ 511.13(5) for exceptions for ~~construction machinery~~ special mobile equipment.

**511.13(2) Annual oversize/overweight permits.**

a. No change.

b. See subrule ~~511.12(5)~~ 511.13(5) for exceptions for ~~construction machinery~~ special mobile equipment.

**511.13(3) Multitrip permits.**

a. No change.

b. See subrule ~~511.12(5)~~ 511.13(5) for exceptions for ~~construction machinery~~ special mobile equipment.

**511.13(4) Single-trip permits.**

a. to c. No change.

d. See subrule ~~511.12(5)~~ 511.13(5) for exceptions for ~~construction machinery~~ special mobile equipment.

**511.13(5) ~~Construction machinery~~ Special mobile equipment.** ~~Construction machinery~~ Special mobile equipment may have a gross weight of 36,000 pounds on any single axle equipped with minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 80,000 pounds for movement under an annual or all-systems permit and 126,000 pounds for movement under a single-trip, multitrip or annual oversize/overweight permit.

For tire sizes and weights allowed between the maximum and minimum indicated, the following formula shall apply: Axle weight = 20,000 pounds + (tire width - 18) × 1,882 pounds.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.8, 321E.9, 321E.9A and 321E.32 and ~~Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2492, section 36.~~

ITEM 19. Amend renumbered rule 761—511.14(321,321E) as follows:

**761—511.14(321,321E) Movement of vehicles with divisible loads exceeding statutory size or weight limits.**

**511.14(1)** No change.

**511.14(2)** At the discretion of the permit-issuing authority, the combined gross weight may exceed the statutory weight, but the axle weights shall be subject to rule ~~511.12~~ 761—511.13(321,321E).

**511.14(3)** No change.

**511.14(4)** This rule does not apply to divisible loads of hay, straw, ~~or~~ stover or bagged livestock bedding.

This rule is intended to implement Iowa Code sections 321.463 and 321E.29.

ITEM 20. Amend renumbered subrule 511.16(1) as follows:

**511.16(1) Escort qualification.** An escort shall be a person aged 18 or over who possesses a ~~Class A, B, C or D~~ valid driver's license which allows driving unaccompanied, ~~has a properly equipped vehicle,~~ and who carries proof of public liability insurance in the amounts of \$100,000/\$200,000/\$50,000.

ITEM 21. Amend renumbered subrule 511.16(2) as follows:

**511.16(2) Escorting responsibilities.**

## TRANSPORTATION DEPARTMENT[761](cont'd)

a. The escorting vehicle shall be a mid-size automobile or motor truck with sufficient mobility to be able to assist in an emergency and designed to afford clear and unobstructed vision both front and rear. The escorting vehicle shall not be used to tow a trailer while performing escorting duties. In questionable cases the permit-issuing authority shall determine if a vehicle meets these conditions.

b. The escorting vehicle shall have ~~an amber revolving light at least 7 inches high and 7 inches in diameter with at least a 100-candlepower lamp providing a flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning.~~ A light of smaller dimensions shall not be permitted unless a strobe light is used. While escorting a permit load, the revolving light shall be mounted on top of the escort vehicle and shall be burning. Additional escort vehicle markings may be approved or required by the permit-issuing authority.

c. to i. No change.

j. A pole used for measuring vertical clearances shall be mounted on the front escort vehicle. The escort shall be required to measure all vertical clearances whenever the height of the permitted vehicle exceeds 14 feet 4 6 inches up to and including 20 feet.

ITEM 22. Rescind renumbered subrule **511.16(3)**.

ITEM 23. Adopt the following **new** subrule 511.16(3):

**511.16(3) Requirements for escorts, flags, signs and lights.** The following chart explains the minimum escort and warning devices required for vehicles operating under permit.

Minimum Warning Devices and Escort Requirements  
For Vehicles Operating Under Permit

	Flags/Signs	Lights	Escorts	
			4-Lane	2-Lane
<b>Length</b>				
75'1" up to and including 85'	yes	not required	not required	not required
Over 85' up to and including 120'	yes	yes	not required	not required
Over 120'	yes	not required	rear	rear
<b>Projections</b>				
Front: over 25'	not required	yes	not required	not required
Rear: over 4' up to and including 10'	flags only	not required	not required	not required
Rear: over 10'	flags only	yes	not required	not required
<b>Height</b>				
Over 14'6" up to and including 20'	yes	not required	front with a height pole	front with a height pole
<b>Weight</b>				
Over 80,000 lbs.	not required	yes	not required	not required

TRANSPORTATION DEPARTMENT[761](cont'd)

Width				
Over 8'6" up to 12'0"	yes	not required	not required	not required
Over 12'0" up to and including 14'6"	yes	not required	rear *	front *
Over 14'6" up to and including 16'6"	yes	not required	rear *	front
Over 16'6" up to and including 18'	yes	not required	rear	front

\*In lieu of an escort, a carrier can display an amber light or strobe light on the power unit and on the rear extremity of the vehicle or load.

yes = required

Definitions:

Flags - Red or orange fluorescent flags at least 18" square must be mounted as follows: one flag at each front corner of the towing unit and one flag at each rear corner of the load. In addition, there must be a flag at any additional protrusion in the width of the load.

Signs - A sign reading "Oversize Load" must be used. The sign must be at least 18" high by 7' long with a minimum of 10" black letters, with a 1½" stroke, on a yellow background, and mounted on the front bumper and on the rear of the load. The rear sign for mobile homes and factory-built structures must be mounted at least 7' above the highway surface, measuring from the bottom of the sign.

Lights - A flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning must be mounted on the towing unit and be visible from front and rear. More than one light may be necessary.

The permit-issuing authority may require additional escorts when deemed necessary. The signs or warning devices must be removed or covered when the vehicle is within legal dimensions.

This rule is intended to implement Iowa Code sections 321E.14, 321E.24 and 321E.34.

ITEM 24. Amend renumbered rule 761—511.17(321,321E) as follows:

**761—511.17(321,321E) Permit violations.**

~~511.17(1)~~ Permit violations are to be reported to the permit-issuing authority by the arresting officer and the permit holder. If a permit holder is found to have willfully violated permit provisions, the office of vehicle and motor carrier services may, after notice and hearing, suspend, modify or revoke the permit privileges of the permit holder consistent with Iowa Code section 321E.20.

~~511.17(2)~~ Rescinded IAB 1/15/97, effective 4/30/97.

~~511.17(3)~~ Rescinded IAB 1/15/97, effective 4/30/97.

~~511.17(4)~~ Rescinded IAB 10/12/05, effective 11/16/05.

This rule is intended to implement Iowa Code sections 321.492, 321E.16 and 321E.20.

ITEM 25. Adopt the following **new** rule 761—511.18(321):

**761—511.18(321) Movement of combination vehicles on economic export corridors.**

**511.18(1)** *Designation of economic export corridors.*

a. The department may in its discretion establish economic export corridors for the transportation of goods or products manufactured in Iowa to or through the state of South Dakota and for the return of unladen semitrailers or unladen full trailers used for the transportation of those goods or products. An economic export corridor shall not include any segment of the interstate system or any part of the national network of highways identified pursuant to 23 CFR Part 658. However, if appropriate, the department may petition the Federal Highway Administration to remove a road or road segment from the national network of highways for the purpose of including it in an economic export corridor.

## TRANSPORTATION DEPARTMENT[761](cont'd)

*b.* The department may initiate designation of economic export corridors, or a request for economic export corridor designation may be submitted to the department by an interested party. If a proposed economic export corridor includes any roads or road segments that are under the jurisdiction of a city or a county, a resolution from all relevant local jurisdictions must be submitted to the department indicating their support for economic export corridor designation. The resolution must include a description of the proposed economic export corridor under local jurisdiction.

*c.* The department shall exercise due regard for the safety of the traveling public and the protection of the highway surfaces and structures when establishing an economic export corridor. Factors to be considered include ability of the proposed economic export corridor to safely accommodate combinations of vehicles described in subrule 511.18(2), taking into account physical configurations and restrictions and traffic demands and capacity, as well as connection to markets that will benefit from the established economic export corridor.

*d.* The department will post established economic export corridors on the department's Web site.  
**511.18(2) *Combination vehicles that may be operated on an economic export corridor.***

*a.* In addition to combinations of vehicles lawful for operation on roads or road segments not designated as an economic export corridor, the following combinations of vehicles may be operated on an economic export corridor designated under subrule 511.18(1) if the combinations of vehicles meet the requirements in paragraph 511.18(2) "b":

(1) A truck tractor-semitrailer-semitrailer converted to a full trailer by use of a dolly equipped with a fifth wheel which is considered a part of the trailer for all purposes, and not a separate unit; or

(2) A truck tractor-semitrailer-full trailer; or

(3) A truck tractor-semitrailer-semitrailer combination, where the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

*b.* The combination of vehicles shall meet all of the following requirements:

(1) The length of the combination of vehicles, excluding the length of the truck tractor, shall not exceed 81½ feet.

(2) The length of either semitrailer or full trailer shall not exceed 45 feet.

(3) The weight of the second semitrailer or full trailer shall not exceed the weight of the first semitrailer by more than 3,000 pounds.

(4) The gross weight of the combination of vehicles shall not exceed 80,000 pounds and the combination of vehicles shall not exceed the gross axle weight limits of Iowa Code section 321.463(2).

(5) The load on each semitrailer or full trailer in the combination shall be an indivisible load. For the purpose of issuing permits for height or width under Iowa Code chapter 321E, the combination of vehicles shall be considered an indivisible load so long as the load on each semitrailer or full trailer in the combination remains an indivisible load.

*c.* The length of the frame extension shall not be included when determining the overall length of the first semitrailer in a truck tractor-semitrailer-semitrailer combination in which the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

*d.* For purposes of this subrule, "full trailer" means as defined in 49 CFR Section 390.5.

This rule is intended to implement Iowa Code section 321.457(2) "n."

ITEM 26. Rescind and reserve **761—Chapter 513.**

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

## USURY(cont'd)

May 1, 2016 — May 31, 2016	4.00%
June 1, 2016 — June 30, 2016	3.75%
July 1, 2016 — July 31, 2016	3.75%
August 1, 2016 — August 31, 2016	3.75%
September 1, 2016 — September 30, 2016	3.50%
October 1, 2016 — October 31, 2016	3.50%
November 1, 2016 — November 30, 2016	3.75%
December 1, 2016 — December 31, 2016	3.75%
January 1, 2017 — January 31, 2017	4.25%
February 1, 2017 — February 28, 2017	4.50%
March 1, 2017 — March 31, 2017	4.50%
April 1, 2017 — April 30, 2017	4.50%
May 1, 2017 — May 31, 2017	4.50%

## ARC 3054C

## CHILD ADVOCACY BOARD[489]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 237.18, the Child Advocacy Board (Board) hereby rescinds Chapter 1, “Purpose and Function,” Iowa Administrative Code, and adopts a new Chapter 1 with the same title.

The new Chapter 1 removes obsolete language, updates references to the “Foster Care Review Board” by replacing that term with the term “Child Advocacy Board” where applicable, adds procedures and protocols for the operation of the court appointed special advocate (CASA) program and includes language pertaining to the receiving and administering of funds received by the Board.

The Board does not believe that this amendment poses a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 15, 2017, as **ARC 2974C**. The Board received no comments during the public comment period. However, one technical change was made to include a previously omitted Iowa Code citation in the chapter’s implementation sentence.

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

This amendment is intended to implement Iowa Code sections 237.15 and 237.16.

This amendment will become effective June 14, 2017.

The following amendment is adopted.

Rescind 489—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
PURPOSE AND FUNCTION

**489—1.1(237) Purpose.** The child advocacy board is established by Iowa Code section 237.16 to carry out all duties described in Iowa Code section 237.18. The board is charged with the responsibility of establishing a foster care registry, establishing local review boards to review cases of children in foster care, establishing a training program for board members, establishing procedures and protocols for administering the court appointed special advocate program, receiving and administering funds received for the state board’s programs and annually reporting findings and making recommendations to the governor, general assembly, the supreme court, the chief judge of each judicial district, the department, and child-placing agencies.

**1.1(1) Location.** The child advocacy board is located in the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; telephone (515)281-7621. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on state holidays. The child advocacy board is created within the department of inspections and appeals.

**1.1(2) Definitions.** The following definitions apply to the rules of the child advocacy board.

“*Case permanency plan*” means the same as defined in Iowa Code section 232.2(4), except the plan shall also include all of the following:

1. The efforts to place the child with a relative.
2. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state.
3. Time frames to meet the stated permanency goal and short-term objectives.

“*Child receiving foster care*” means a child defined in Iowa Code section 234.1 who is described by any of the following circumstances:

1. The child’s foster care placement is the financial responsibility of the state pursuant to Iowa Code section 234.35.
2. The child is under the guardianship of the department.

## CHILD ADVOCACY BOARD[489](cont'd)

3. The child has been involuntarily hospitalized for mental illness pursuant to Iowa Code chapter 229.

4. The child is at risk of being placed outside the child's home, the department or court is providing or planning to provide services to the child, and the department or court has requested the involvement of the state or local board.

*"Court appointed special advocate"* means the same as defined in Iowa Code section 232.2.

*"Department"* means the department of human services.

*"Family"* means the social unit consisting of the child and the biological or adoptive parent, stepparent, brother, sister, stepbrother, stepsister, and grandparent of the child.

*"Local board"* means a local citizen foster care review board created pursuant to Iowa Code section 237.19.

*"Person or court responsible for the child"* means the department, including but not limited to the department of human services, agency, or individual who is the guardian of a child by court order issued by the juvenile or district court and has the responsibility of the care of the child, or the court having jurisdiction over the child.

*"State board"* means the child advocacy board created pursuant to Iowa Code section 237.16.

This rule is intended to implement Iowa Code sections 17A.3, 237.15, and 237.16.

[Filed 4/20/17, effective 6/14/17]

[Published 5/10/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3055C**

## **CHILD ADVOCACY BOARD[489]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 237.18, the Child Advocacy Board (Board) hereby rescinds Chapter 2, "Rules and Operation for the Board," and adopts a new Chapter 2, "Rules and Operation for the State Board," Iowa Administrative Code.

The new Chapter 2 removes obsolete language; clarifies and simplifies the membership of the Board and its duties, as well as the duties of the administrator; removes references to training, which is addressed in detail in Iowa Code section 237.18(2)"d"; and provides that confidentiality requirements for the Board and its employees comply with Iowa Code section 237.21.

The Board does not believe that this amendment poses a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 15, 2017, as **ARC 2975C**. The Board received no comments during the public comment period. This amendment is identical to that published under Notice.

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

This amendment is intended to implement Iowa Code sections 237.16, 237.17, 237.18, and 237.21.

This amendment will become effective June 14, 2017.

The following amendment is adopted.

Rescind 489—Chapter 2 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 2

#### RULES AND OPERATION FOR THE STATE BOARD

#### **489—2.1(237) Membership and term.**

**2.1(1) Membership and terms.** The child advocacy board is created within the department of inspections and appeals. The state board consists of nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active

## CHILD ADVOCACY BOARD[489](cont'd)

court appointed special advocate volunteer, one member shall be an active member of a local citizen foster care review board, and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years that begins and ends as provided in Iowa Code section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made. An employee of the department of human services or of the department of inspections and appeals, an employee of a child-placing agency, an employee of an agency with which the department of human services contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board. However, the judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch in accordance with Iowa Code section 237.16(1) shall be eligible to serve on the state board.

**2.1(2) Officers.** The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members may be entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties, subject to available funding. Each member of the state board may also be eligible to receive compensation as provided in Iowa Code section 7E.6.

**2.1(3) Meetings.** The state board shall meet at least twice a year. Notice of a meeting is published at least seven days in advance of the meeting and will be mailed to interested persons upon request. The notice shall contain the specific date, time and place of the meeting. The agenda will be made available to any interested person not less than seven days in advance of the meeting. All meetings will be open to the public, pursuant to Iowa Code chapter 21, unless a closed session is voted by a quorum. The operation of the state board meetings will be governed by the following rules of procedure.

*a.* A quorum shall consist of a majority of the members. When a quorum is present, a position is carried by an affirmative vote of a majority of the members present.

*b.* Minutes of state board meetings are prepared and are available at the board office for inspection during office hours. Copies may be obtained without charge by contacting the office.

*c.* At each meeting the state board shall set the time, date and place of the next meeting.

(1) Notice of the meeting shall be given pursuant to Iowa Code chapter 21.

(2) When the chairperson of the state board determines that a special or electronic meeting is required, the meeting shall be held in accordance with Iowa Code section 21.4 or 21.8.

(3) Persons wishing to appear before the state board shall submit the request to the state board office not less than ten days prior to the meeting. Presentations may be made at the discretion of the chairperson and only upon matters appearing on the agenda. Persons wishing to submit written material should do so at least ten days in advance of the scheduled meeting to ensure that state board members have adequate time to receive and evaluate the material.

(4) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. The presiding officer may request a person using such a device to discontinue its use when it is obstructing the meeting. If a person fails to comply with this request, the presiding officer shall order that person excluded from the meeting.

(5) The presiding officer may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

(6) Cases not covered by these rules shall be governed by Robert's Rules of Order.

**2.1(4) Powers and duties.** The powers and duties of the state board are enumerated in Iowa Code section 237.18.

This rule is intended to implement Iowa Code sections 17A.3, 237.16, and 237.18.

**489—2.2(237) Administrator.** The state board appoints an administrator for the child advocacy board. The administrator is responsible for the ongoing administration of the state and local boards' activities and of the court appointed special advocate program. The administrator:

1. Applies for and administers funds necessary for operations of the child advocacy board and the foster care review board and the court appointed special advocate program.

## CHILD ADVOCACY BOARD[489](cont'd)

2. Employs, discharges, trains, and supervises foster care review board and court appointed special advocate program employees.
3. Develops and implements policies and procedures needed to implement requirements of federal law and regulations and state law and administrative rules.
4. Develops and recommends administrative rules for promulgation by the state board as needed to govern the operation of the state board, the foster care review board program and the court appointed special advocate program.
5. Ensures training is provided for state and local board members, court appointed special advocates and coaches and any other volunteers supporting the state board's programs.
6. Ensures that relationships are developed and maintained between the local board and judges, juvenile court referees, local departments, juvenile court services, and advocacy groups.
7. Coordinates efforts to ensure community awareness of state and local boards and the court appointed special advocate program.
8. Works closely with allied agencies and associations to ensure that efforts relating to state and local boards and the court appointed special advocate program are coordinated and consistent.
9. Develops a management information system and procedures which provide feedback to local agencies serving the children to be reviewed, schedules for review, and recommendations following reviews and which provide reports of court appointed special advocate observations, findings, and recommendations to the court and parties to the child's case to which the advocate is assigned.
10. Designs forms and specifies the means by which foster care agencies may transmit case information to local boards.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18(5).

**489—2.3(237) Foster care registry.** The state board shall establish a registry of the placements of all children receiving foster care. The department shall notify the state board of each placement within five working days of the department's notification of the placement. The notification to the state board shall include information identifying the child receiving foster care and placement information for that child.

Within 30 days of the placement or 2 days after the dispositional hearing, the agency responsible for the placement shall submit the case permanency plan to the state board. All subsequent revisions of the case permanency plan shall be submitted when the revisions are developed.

This rule is intended to implement Iowa Code sections 17A.3 and 237.17.

**489—2.4(237) Confidentiality of records—penalty.** The state and local boards, court appointed special advocates and coaches and child advocacy employees shall adhere to the confidentiality requirements established in Iowa Code section 237.21.

This rule is intended to implement Iowa Code sections 17A.3 and 237.21.

[Filed 4/20/17, effective 6/14/17]

[Published 5/10/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3056C**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby amends Chapter 1, "Organization," Iowa Administrative Code.

These amendments are intended to implement 2016 Iowa Acts, Senate File 2306 and Senate File 492, which amended Iowa Code chapter 29C.

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

Senate File 2306, codified at Iowa Code section 29C.24, created a process to facilitate business rapid response to state-declared disasters. While the enabling language resides within Iowa Code chapter 29C, most of the process elements reside with the Department of Revenue and the Secretary of State. The Homeland Security and Emergency Management Department wants to ensure that businesses wishing to use the process are referred to the proper administrative rules that implement the process.

Senate File 492, codified at Iowa Code section 29C.20B, established a disaster case management grant fund and program which function in concert with the disaster aid individual assistance grant fund created in Iowa Code section 29C.20A. While the enabling language for both programs resides within Iowa Code chapter 29C, the Department of Human Services is the implementing agency. The Homeland Security and Emergency Management Department wants to ensure that citizens wishing to understand the administration of either the disaster case management grant fund and program or the disaster aid individual assistance grant fund are referred to the proper administrative rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2964C** on March 15, 2017. No public comment was received during the comment period. These amendments are identical to those published under Notice of Intended Action.

The Homeland Security and Emergency Management Department adopted these amendments on April 20, 2017.

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

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

These amendments are intended to implement Iowa Code chapter 29C as amended by 2016 Iowa Acts, Senate File 2306 and Senate File 492.

These amendments will become effective June 14, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 605—1.3(29C):

**605—1.3(29C) Facilitating business rapid response to state-declared disasters.** The implementation of business rapid response to state-declared disasters is addressed in the rules of the Iowa secretary of state in 721—Chapter 12 and the Iowa department of revenue in 701—Chapter 242.

ITEM 2. Adopt the following **new** rule 605—1.4(29C):

**605—1.4(29C) Disaster case management grant fund and program.** The implementation of the disaster case management grant fund and program is addressed in the rules of the Iowa department of human services in 441—Chapter 58.

ITEM 3. Adopt the following **new** rule 605—1.5(29C):

**605—1.5(29C) Disaster aid individual assistance grant fund.** The implementation of the disaster aid individual assistance grant fund is addressed in the rules of the Iowa department of human services in 441—Chapter 58.

[Filed 4/20/17, effective 6/14/17]

[Published 5/10/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3057C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 225D.2 and 225C.6, the Department of Human Services hereby amends Chapter 22, "Autism Support Program," and Chapter 24, "Accreditation

## HUMAN SERVICES DEPARTMENT[441](cont'd)

of Providers of Services to Persons with Mental Illness, Intellectual Disabilities, or Developmental Disabilities,” Iowa Administrative Code.

These amendments bring the definition of “eligible individual” into alignment with legislative changes made to Iowa Code chapter 225D in 2016. The Department discovered that this change of definition had been inadvertently left out of previously adopted amendments to Chapter 22.

These amendments add new staff qualification options for crisis service providers. This change will increase the ability of providers to hire staff to provide some crisis response services. Providers are challenged to provide staffing for crisis response services. Providers, advocates, and the Mental Health and Disability Services (MHDS) Commission requested that the Department review the staff qualifications to provide crisis response services. Stakeholders felt that there was a level of staff who may be well-qualified to provide some of the crisis response services but did not meet the qualifications in accordance with administrative rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2971C** on March 15, 2017. The Department received comments from four respondents during the public comment period. The respondents’ comments and the Department’s responses are as follows:

**Comment 1:** One respondent suggested reducing the minimum requirement for experience of a candidate with a bachelor’s degree in a non-human services-related field from two years to one year.

**Department response 1:** Crisis response staff need the ability to manage and support an individual in a mental health crisis. Crisis response staff also need to understand how individuals in crisis may react and respond to their situations. The Department feels that a combination of education and experience is important for crisis response staff to be prepared. The Department made no changes to these amendments based on the comment from the respondent.

**Comment 2:** One respondent suggested removing the minimum requirement for experience of a candidate with a bachelor’s degree in a human services field.

**Department response 2:** Crisis response staff need the ability to manage and support an individual in a mental health crisis. Crisis response staff also need to understand how individuals in crisis may react and respond to their situation. The Department feels that a combination of education and experience is important for crisis response staff to be prepared. The Department made no changes to these amendments based on the comment from the respondent.

**Comment 3:** One respondent suggested allowing staff to include experience serving individuals with mental or behavioral health needs, including individuals with autism spectrum disorder.

**Department response 3:** When serving an individual experiencing a mental health crisis, experience in behavioral or mental health services is essential to support the individual. The services provided to individuals with only a diagnosis of the autism spectrum disorder do not represent the experience needed to provide mental health crisis services. The Department made no changes to these amendments based on the comment from the respondent.

**Comment 4:** Two respondents suggested removing the maximum-capacity provision to allow crisis residential service providers with a capacity larger than 16 beds to be accredited.

**Department response 4:** The amendments to rules 441—24.23(225C) and 441—24.24(225C) only address standards for crisis response staff and do not speak to the capacity of crisis residential service providers. The Department made no changes to these amendments based on the comment from these respondents.

These amendments are identical to those published under Notice of Intended Action.

The Mental Health and Disability Services Commission adopted these amendments on April 20, 2017.

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

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

These amendments are intended to implement Iowa Code sections 225D.2 and 225C.6.

These amendments will become effective July 1, 2017.

The following amendments are adopted.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend rule **441—22.1(225D)**, definition of “Eligible individual,” as follows:

“*Eligible individual*” means a child less than ~~nine~~ 14 years of age who has been diagnosed with autism based on a diagnostic assessment of autism, is not otherwise eligible for coverage for applied behavioral analysis treatment under the medical assistance program, Iowa Code section 514C.28, or private insurance coverage, and whose household income does not exceed ~~400~~ 500 percent of the federal poverty level.

ITEM 2. Rescind rule 441—24.23(225C) and adopt the following new rule in lieu thereof:

**441—24.23(225C) Standards for organizational activities.**

**24.23(1)** The organization shall meet the standards in subrules 24.3(1) through 24.3(5).

**24.23(2)** The organization shall describe the staffing structure that details how staff are utilized to provide the specific crisis stabilization services in rules 441—24.32(225C) through 441—24.39(225C).

ITEM 3. Amend rule 441—24.24(225C) as follows:

**441—24.24(225C) Standards for crisis response staff.** All crisis response staff shall meet the qualifications described in this rule. Additional staff requirements are described in each service.

**24.24(1)** No change.

**24.24(2)** *Performance indicators.*

*a.* One or more of the following qualifications are met:

(1) No change.

(2) A bachelor’s degree with 30 semester hours or equivalent in a human services field (including, but not limited to, psychology, social work, ~~mental health counseling, marriage and family therapy,~~ nursing, education) and ~~at least a minimum of~~ one year of experience in behavioral or mental health services.

(3) A law enforcement officer ~~trained in crisis intervention including, but not limited to, mental health first aid and mental health in-service training~~ with a minimum of two years of experience in the law enforcement officer’s field.

(4) An emergency medical technician (EMT) ~~trained in crisis intervention including, but not limited to, mental health first aid~~ with a minimum of two years of experience in the EMT’s field.

(5) A peer support specialist with a minimum ~~certification of mental health first aid~~ of one year of experience in behavioral or mental health services.

(6) A family support peer specialist with a minimum ~~certification of mental health first aid~~ of one year of experience in behavioral or mental health services.

(7) A registered nurse with ~~two years~~ a minimum of one year of ~~mental or~~ experience in behavioral or mental health ~~experience~~ services.

(8) A bachelor’s degree in a non-human services-related field, associate’s degree, or high school diploma (or equivalency) with a minimum of two years of experience in behavioral or mental health services, and 30 hours of crisis and mental health in-service training (in addition to the required 30 hours of department-approved training).

*b.* No change.

[Filed 4/20/17, effective 7/1/17]

[Published 5/10/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3058C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6 and 29C.20B, the Department of Human Services hereby amends Chapter 58, “Emergency Assistance,” Iowa Administrative Code.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

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

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2898C** on January 18, 2017. The Department received comments from three respondents during the public comment period. The respondents' comments and the Department's responses are as follows:

**Comment 1:** Two respondents sent duplicate letters which requested a change to subrule 58.2(2) that would allow the Department to contract directly with local county emergency management agencies to administer the IIAGP.

**Department response 1:** The respondents' proposed change to the Notice of Intended Action would mean that the Department would contract with a local entity to provide disaster-related services.

Iowa Code section 29C.20A(2) states, in part: "The department of human services may implement an ongoing contract with a provider or providers of a *statewide* program with local offices throughout the state to serve as the local administrative entity for the grant program so that the program can be implemented with minimal delay when a disaster occurs in a local area." [Emphasis added.]

The Department implemented an ongoing contract with a statewide provider in accordance with the Iowa Code. The contract established by the Department with the statewide entity allows for that entity to contract directly with local county emergency management agencies to implement the IIAGP.

Finally, these adopted amendments implement the IDCM program. State laws providing for the Department to contract with entities to administer both the IIAGP and IDCM differ slightly. State law regarding IDCM states that the Department "shall" contract with a statewide entity to implement the program. The proposal from the respondents does not account for implementation of the IDCM program by any organization other than a statewide entity.

The Department is unable to accept the respondents' proposed change because it would violate state law.

**Comment 2:** One respondent sent in a comment that supported the proposed amendments.

**Department response 2:** The Department has no response to the supportive comment.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on April 12, 2017.

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

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

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

These amendments will become effective July 1, 2017.

The following amendments are adopted.

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

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

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

"*Fifth-wheel travel trailer*," as set forth in Iowa Code section 321.1(36C)(c), means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of

HUMAN SERVICES DEPARTMENT[441](cont'd)

travel trailer may have an overall length which shall not exceed 45 feet. If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

“*Home*” means the pre-disaster dwelling or dwelling unit for a household.

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

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

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

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

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

“*Rent*” means an amount paid to the landlord under the rental agreement.

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

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

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

**58.2(3) Program extensions.**

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

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

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

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

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

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

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

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

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

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

- (1) Small appliances, e.g., toaster, blender, microwave, and
- (2) Furnishings (e.g., tables, chairs).

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

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

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

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

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

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

*h.* Other items, including:

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

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

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

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

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

*b.* Assistance may be authorized for:

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

(3) Debris removal, including trees, up to a maximum of \$1,000.

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

*c.* Repairs to rental ~~property~~ dwellings or dwelling units or landlord-owned equipment are excluded under this program.

*d.* Bathroom, up to a maximum of \$1,500, including toilet, sink, and tub/shower.

*e.* Sump pump (in a flood event only), up to a maximum of \$200 installed.

*f.* Electrical or mechanical repairs, up to a maximum of \$2,000.

*g.* Water heater, up to a maximum of \$1,500 installed.

*h.* Heating systems, up to a maximum of \$2,100 installed.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- i. Air-conditioning systems, up to a maximum of \$2,100 installed.
- j. Water well repair for dwellings or dwelling units with no other source of water available, up to a maximum of \$2,000.
- k. Water softener repair, up to a maximum of \$500.

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

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

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

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

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

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

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

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

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

DIVISION II  
IOWA DISASTER CASE MANAGEMENT

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

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

**441—58.22(29C) Definitions.**

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

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

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

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

**441—58.23(29C) Program implementation.**

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

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

**441—58.28(29C) Standards and policies.**

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

**58.28(2) Confidentiality and duplications of benefits.**

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

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

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

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

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

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

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

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

**58.28(6) Recovery planning.**

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

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

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

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

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

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

**58.28(9) Closure.**

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

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

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—58.30(29C) Payment for services.**

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

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

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

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

**441—58.31(29C) Contested cases.**

**58.31(1) Reconsideration.**

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

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

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

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

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

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

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

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

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

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

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

[Filed 4/12/17, effective 7/1/17]

[Published 5/10/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3059C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 91C.6, the Labor Commissioner hereby amends Chapter 150, "Construction Contractor Registration," Iowa Administrative Code.

Legislation enacted in 2013 set forth a July 1, 2017, deadline for the Iowa Division of Labor and the Iowa Department of Public Health to create a combined application process for businesses covered by

## LABOR SERVICES DIVISION[875](cont'd)

Iowa Code chapters 91C and 105. These amendments facilitate the combined application process and remove obsolete language.

Notice of Intended Action was published in the March 15, 2017, Iowa Administrative Bulletin as **ARC 2965C**. No comments were received. These amendments are identical to the amendments published under Notice of Intended Action.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 1.

After analysis and review of this rule making, no impact on jobs will occur.

These amendments are intended to implement Iowa Code chapter 91C.

These amendments shall become effective on June 14, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 875—150.4(91C), introductory paragraph, as follows:

**875—150.4(91C) Application.** A contractor that is covered by the license requirements of Iowa Code chapter 105 shall apply for a contractor registration number by using the application system of the Iowa plumbing and mechanical systems board. ~~Each contractor~~ All other contractors shall file an application with the division ~~for a registration number~~ on forms provided by the division. The application shall contain the applicable information and documents specified in this rule.

ITEM 2. Amend subrule 150.4(7) as follows:

**150.4(7) Account number.** The employer account number ~~or special contractor number~~ issued by the unemployment insurance services division of the workforce development department ~~prior to making application for a contractor's~~ before the contractor applies for a contractor registration number.

ITEM 3. Rescind subrule 150.4(9) and adopt the following new subrule in lieu thereof:

**150.4(9) Fee or fee exemption.** A contractor who is eligible to register without paying a fee shall submit a completed fee exemption form. All other contractors must submit the nonrefundable fee as set forth below.

a. The standard fee is \$50 per year.

b. Contractors who apply for a contractor registration number through the Iowa plumbing and mechanical systems board must pay a fee that is prorated in accordance with the length of the registration period.

ITEM 4. Rescind and reserve subrule **150.6(3)**.

[Filed 4/19/17, effective 6/14/17]

[Published 5/10/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3060C**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 481A.38, 481A.39, and 481A.48, the Natural Resource Commission (Commission) hereby amends Chapter 91, “Waterfowl and Coot Hunting Seasons,” Chapter 97, “Common Snipe, Virginia Rail and Sora, Woodcock, Ruffed Grouse, and Dove Hunting Seasons,” and Chapter 102, “Falconry Regulations for Hunting Game,” Iowa Administrative Code.

Chapter 91 contains the regulations for hunting waterfowl and coot and includes season dates, bag limits, possession limits, shooting hours, and areas open to hunting. These amendments make the annual adjustment to the season dates for the 2017-2018 waterfowl seasons so that they comply with the corresponding federal regulations published in 82 Fed. Reg. 10,222-10,254 (February 9, 2017). These amendments also ensure that the seasons open on different weekends to maximize hunter opportunity

## NATURAL RESOURCE COMMISSION[571](cont'd)

and continue for a fourth year an experimental special September teal season. The continuation of the special teal season will not adversely impact teal numbers and will allow Iowa hunters additional days of recreational hunting opportunity during the peak migration period for teal. The federal regulations will likely authorize up to 16 days for the special teal season. Last year, hunters requested, and the Commission implemented, a two-week period of calm and hunter inactivity between the end of the teal season and the start of the regular duck season. The amendments repeat this period again for the 2017-2018 seasons.

The Commission makes three other amendments to Chapter 91 in this rule making. Subrule 91.4(1) is amended to accurately reflect the posted boundary of a waterfowl refuge located in the Upper Iowa Wildlife Unit. The current subrule states that waterfowl and coot hunting is not allowed within 300 feet of the center of the Army Road from New Albin to the boat ramp on the Mississippi River within sections 11 and 12, but the refuge is actually marked at a distance of 150 feet. This is an editorial change for accuracy and does not change the refuge's actual boundary. The daily bag limit for black ducks is increasing from one to two, as allowed by the federal regulations. Finally, the Commission is removing all language addressing the old 2016-2017 zone structure.

Chapter 97 contains the regulations for dove hunting. The United States Fish and Wildlife Service (USFWS) now allows 90 days of dove hunting, up from 70 days, and rule 571—97.6(481A) is amended to reflect that change. This 20-day extension is not expected to result in a significant increase in harvest due to federal constraints on the opening date of the dove season, but it will allow hunters the maximum opportunity in season length to harvest doves.

Chapter 102 contains the regulations for falconry seasons. USFWS allows duck hunting by falconry during the conventional gun hunting seasons and afterwards, too, in a special "extended" falconry-only season. This special season cannot extend beyond the duck hunting season length of 107 days and is calculated as follows: 107 days minus 16 teal days, minus 2 youth days, minus 60 gun days, equals 29 days for exclusive falconry duck hunting. The later duck-hunting dates implemented in the 2016-2017 seasons (and proposed again for 2017-2018) resulted in the loss of several days for exclusive falconry hunting because the conventional gun season went until December 18 in one zone and December 15 in another, which is the same day under subrule 102.2(1) that the "extended" falconry season started statewide. This four-day overlap between the gun season and the extended falconry season arguably "wasted" four of the falconry-only days because those falconers were already able to hunt. In other words, removing this overlap in the 2017-2018 seasons will allow for 29 days of exclusive falconry hunting, whereas last year there were only 25 days. Additionally, the Commission is amending the opening date of the extended falconry season from a specific calendar date (December 15) to a rotating weekend opener (i.e., "the first Saturday in January"), which will guarantee an annual weekend start and eliminate the need to amend the rule in the future solely to adjust a specific calendar date. Finally, the Commission is updating the falconry regulations to amend the possession limit to three times the daily bag limit, per updated federal regulations, and is removing incorrect language regarding the dark goose falconry season.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 15, 2017, as **ARC 2937C**. The Commission held one formal public hearing on March 7, 2017, and an informal statewide hearing through the Iowa Communications Network on February 22, 2017. Eight comments were received from the public during the comment period. Six of the comments requested later season dates, one comment requested earlier goose hunting dates, and one comment opposed the extension of the dove hunting season.

The following change from the Notice of Intended Action has been made: Subrule 91.1(5) has been amended to reduce the pintail bag limit from two to one to comply with federal frameworks established by the USFWS. This bag limit adjustment was not included in the Notice because USFWS had not indicated this change in the preliminary rule proposed in the Federal Register (June 6, 2016) or at the August 2016 Mississippi Flyway meeting. The reduction in the pintail bag limit was not formally announced until the proposed frameworks were published in the Federal Register on February 9, 2017.

After analysis and review of this rule making, it was determined that there will not be an impact on jobs in the state.

## NATURAL RESOURCE COMMISSION[571](cont'd)

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48. These amendments will become effective on June 14, 2017.

The following amendments are adopted.

ITEM 1. Amend subrules 91.1(1) to 91.1(5) as follows:

**91.1(1) Zone boundaries.** ~~The following zone boundaries apply in the time frames noted:~~

~~a. For the 2016-2017 season, the north duck hunting zone is that part of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The Missouri River duck hunting zone is that part of Iowa west of Interstate 29 and north of State Highway 175. The south duck hunting zone is the remainder of the state.~~

~~b. For the 2017-2021 seasons, the~~ The north duck hunting zone is that part of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The Missouri River duck hunting zone is that part of Iowa west of Interstate 29 and south to the Iowa-Missouri border. The south duck hunting zone is the remainder of the state.

**91.1(2) Season dates - north zone.** Special September teal season: September ~~3~~ 2 through September ~~10~~ 10. For all ducks: September ~~24~~ 23 through October ~~2~~ 1 and October ~~15~~ 14 through December ~~4~~ 3.

**91.1(3) Season dates - south zone.** Special September teal season: September ~~3~~ 2 through September ~~10~~ 10. For all ducks: ~~October 1~~ September 30 through October ~~5~~ 4 and October ~~22~~ 21 through December ~~15~~ 14.

**91.1(4) Season dates - Missouri River zone.** Special September teal season: September ~~3~~ 2 through September ~~18~~ 17. For all ducks: October ~~8~~ 7 and October ~~9~~ 8 and October ~~22~~ 21 through December ~~18~~ 17.

**91.1(5) Bag limit.** Special September teal season: The daily bag limit is 6 teal of any species. For all ducks: The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), ~~1~~ 2 black duck ducks, 3 wood ducks, ~~2~~ 1 pintails, 1 mottled duck, 2 canvasback, 2 redheads, and 3 scaup. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

ITEM 2. Amend subrules 91.3(1) to 91.3(5) as follows:

**91.3(1) Zone boundaries.** ~~The following zone boundaries apply in the time frames noted:~~

~~a. For the 2016-2017 season, the north goose hunting zone is that part of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The Missouri River goose hunting zone is that part of Iowa west of Interstate 29 and north of State Highway 175. The south goose hunting zone is the remainder of the state.~~

~~b. For the 2017-2021 seasons, the~~ The north goose hunting zone is that part of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The Missouri River goose hunting zone is that part of Iowa west of Interstate 29 and south to the Iowa-Missouri border. The south goose hunting zone is the remainder of the state.

**91.3(2) Season dates - north zone.** Dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese): September ~~24~~ 23 through October ~~9~~ 8 and October ~~15~~ 14 through January ~~4, 2017~~ 1, 2018. Light geese (white and blue-phase snow geese and Ross' geese): September ~~24~~ 23 through October ~~9~~ 8 and October ~~15~~ 14 through January ~~13, 2017~~ 10, 2018.

**91.3(3) Season dates - south zone.** Dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese): ~~October 1~~ September 30 through October ~~9~~ 8 and October ~~22~~ 21

## NATURAL RESOURCE COMMISSION[571](cont'd)

through January ~~18, 2017~~ 15, 2018. Light geese (white and blue-phase snow geese and Ross' geese): ~~October 1 through September 30~~ through October ~~9~~ 8 and October ~~22~~ 21 through January ~~27, 2017~~ 24, 2018.

**91.3(4) Season dates - Missouri River zone.** Dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese): October ~~8~~ 7 through October ~~16~~ 15 and October ~~22~~ 21 through January ~~18, 2017~~ 15, 2018. Light geese (white and blue-phase snow geese and Ross' geese): October ~~8~~ 7 through October ~~16~~ 15 and October ~~22~~ 21 through January ~~27, 2017~~ 24, 2018.

**91.3(5) Bag limit.** The daily bag limit for dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese) is 5 and may include no more than 2 Canada geese from September ~~24~~ 23 through October 31 and no more than 3 Canada geese from November 1 through the end of the season. The daily bag limit for light geese (white and blue-phase snow geese and Ross' geese) is 20.

ITEM 3. Amend subrules 91.3(8) to 91.3(11) as follows:

**91.3(8) Light goose conservation order season.** Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January ~~28, 2017~~ 25, 2018, through April 15, ~~2017~~ 2018.

a. to e. No change.

**91.3(9) Cedar Rapids/Iowa City goose hunting zone.**

a. Season dates. September ~~3~~ 2 through September ~~11~~ 10.

b. to d. No change.

**91.3(10) Des Moines goose hunting zone.**

a. Season dates. September ~~3~~ 2 through September ~~11~~ 10.

b. to d. No change.

**91.3(11) Cedar Falls/Waterloo goose hunting zone.**

a. Season dates. September ~~3~~ 2 through September ~~11~~ 10.

b. to d. No change.

ITEM 4. Amend subrule 91.4(1) as follows:

**91.4(1) Waterfowl and coots.** There shall be no open season for ducks, coots and geese on the east and west county road running through sections 21 and 22, township 70 north, range 43 west, Fremont County; three miles of U.S. Highway 30, located on the south section lines of sections 14, 15, and 16, township 78 north, range 45 west, Harrison County; on the county roads immediately adjacent to, or through, Union Slough National Wildlife Refuge, Kossuth County; Louisa County Road X61 from the E-W centerline of section 29, township 74 north, range 2 west, on the south, to the point where it crosses Michael Creek in section 6, township 74 north, range 2 west, on the north, and also all roads through or adjacent to sections 7, 18, and 19 of this same township and roads through or adjacent to sections 12 and 13, township 74 north, range 3 west; the levee protecting the Green Island Wildlife Area from the Mississippi River in Jackson County wherever the levee is on property owned by the United States or the state of Iowa; certain dikes at Otter Creek Marsh, Tama County, where posted as such; and the NE $\frac{1}{4}$ , section 23, and the N $\frac{1}{2}$ , section 24, all in township 70 north, range 19 west, Appanoose County, including county roads immediately adjacent thereto; and all privately owned lands in the S $\frac{1}{2}$ , section 30, township 71 north, range 20 west, Lucas County, including the county road immediately adjacent thereto; Cerro Gordo County Road S14 and its right-of-way, between its junction with U.S. Highway 18 and County Road B-35, and portions of Clear Lake and Ventura Marsh, where posted as such in Cerro Gordo County; that portion of Summit Lake located south of State Highway 25 in the west half of the NW $\frac{1}{4}$  of section 2 (22 acres), and the west half of section 3 (100 acres), T72N, R31W in Union County; and within ~~300~~ 150 feet of the center of the Army Road from New Albin to the boat ramp on the Mississippi River in sections 11 and 12, T100N, R4W, and sections 7 and 8, T100N, R3W, as posted.

ITEM 5. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held on September ~~16 and 17~~ 16 and 17 and ~~18~~ in the north duck hunting zone, September ~~23 and 24~~ 23 and 24 and ~~25~~ in the south duck hunting zone, and ~~September 30 and~~ September 30 and October 1 and ~~2~~ in the Missouri River duck hunting zone. Youth hunters

## NATURAL RESOURCE COMMISSION[571](cont'd)

must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks, geese and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

ITEM 6. Amend rule 571—97.6(481A) as follows:

**571—97.6(481A) Dove season.** Open season for hunting mourning doves and Eurasian collared-doves shall begin on September 1 and continue for ~~70~~ 90 consecutive days. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit is 15; possession limit is 45. The entire state is open.

ITEM 7. Amend rule 571—102.2(481A) as follows:

**571—102.2(481A) Migratory bird regulations.** Seasons and limits for taking migratory birds by means of falconry shall be as follows:

**102.2(1) Ducks and coots.** The season for taking ducks and coots ~~statewide~~ by means of falconry may vary among duck hunting zones. Falconry seasons for ducks and coots shall be open whenever the conventional (gun) duck and coot hunting season is open in each zone, as described in rules 571—91.1(481A) and 571—91.2(481A), and shall also be open beginning ~~December 15~~ the first Saturday in January in each zone and remain open until the combined total of the conventional hunting season days plus falconry hunting season days reaches 107 for the zone or February 28, whichever occurs first.

**102.2(2) Geese.** The season for taking geese by means of falconry may vary among goose hunting zones. Falconry seasons for white-fronted geese and light geese (white and blue-phase snow geese and Ross' geese) shall begin each year on the first day of the conventional (gun) hunting season for these geese in each zone, as described in rule 571—91.3(481A), ~~and continue in each zone for 107 consecutive days.~~ Falconry seasons for Canada geese and brant shall be open concurrently with the conventional (gun) hunting season for these geese ~~as well as any days between the first, second, or third segments of the conventional (gun) hunting season for Canada geese and brant.~~

**102.2(3)** No change.

**102.2(4) Hawking hours and limits.** Hawking hours for migratory game birds are one-half hour before sunrise to sunset. The daily bag limit shall include no more than three migratory game birds, singly or in aggregate. The possession limit is ~~twice~~ three times the daily bag limit. There are no hawking hour restrictions for nonmigratory game during the legal season.

[Filed 4/20/17, effective 6/14/17]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3061C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4 and chapter 272C, the Plumbing and Mechanical Systems Board of the Iowa Department of Public Health hereby amends Chapter 23, "Plumbing and Mechanical Systems Board—Licensee Practice," Chapter 27, "Plumbing and Mechanical Systems Board—Administrative and Regulatory Authority," Chapter 28, "Plumbing and Mechanical Systems Board—Licensure Fees," Chapter 29, "Plumbing and Mechanical Systems Board—Application,

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Licensure, and Examination,” and Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

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

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

Items 6, 14, and 17 update references to the Board’s Web site address, which has changed.

Item 7 of the amendments strikes a reference to a subrule that does not exist.

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

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

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

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

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

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

Item 28 of the amendments creates an exemption from the continuing education requirements for someone who has obtained a specialty, journeyman, or master license with less than one year remaining in the continuing education compliance period. The exemption would apply only to the licensee’s first renewal of that license and only to each license that was issued with less than one year remaining in the continuing education compliance period. Item 28 also creates an exemption from the continuing education requirements for a person who possesses an inactive specialty license and active apprentice license. Part of apprenticeship training includes classroom hours of education and on-the-job training.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2903C** on January 18, 2017. A public hearing was held on February 7, 2017. No one attended the hearing, and

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

no public comments were received. These amendments are identical to those published under Notice of Intended Action.

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

The Plumbing and Mechanical Systems Board adopted these amendments on March 21, 2017.

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

These amendments are intended to implement Iowa Code chapters 105 and 272C.

These amendments will become effective on June 14, 2017.

The following amendments are adopted.

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

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

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

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

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

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

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

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

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

**23.8(3) *Inactive specialty license.***

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

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

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

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

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

**641—27.6(21) Public meetings.** Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained through the Iowa department of public health's Web site (~~<http://www.idph.state.ia.us>~~ <http://idph.iowa.gov/PMSB>) or directly from the board office.

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

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

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*a.* File an application and pay application fees in accordance with rule 641—29.5(105). Effective May 1, 2017, the application shall include the fee for a three-year contractor registration as specified in 875—Chapter 150.

(1) to (3) No change.

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

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

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

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

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

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

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

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

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

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

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

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

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

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

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

**29.7(3) *Specific renewal requirements.***

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

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

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

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

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

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

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

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

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

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

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

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—29.11(105) Review of applications.**

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

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

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

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

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

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

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

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

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

This rule is intended to implement Iowa Code section 105.22.

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

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

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

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

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

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

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

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

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

[Filed 4/20/17, effective 6/14/17]

[Published 5/10/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3062C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board of the Iowa Department of Public Health hereby amends Chapter 25, "State Plumbing Code," Iowa Administrative Code.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2900C** on January 18, 2017. A public hearing was held on February 7, 2017. No one attended the hearing, and no public comments were received. These amendments are identical to those published under Notice of Intended Action.

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

The Plumbing and Mechanical Systems Board adopted these amendments on March 21, 2017.

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

These amendments are intended to implement Iowa Code section 105.4.

These amendments will become effective on June 14, 2017.

The following amendments are adopted.

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

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

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

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

a. Subsection ~~301.4.1~~ 301.5.1 Permit Application. Delete the subsection.

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

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

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

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

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~*f. e.* Subsection ~~1603.11.2.3~~ 1501.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”~~

~~*f.* Section 1503.2 Permit. Delete the section.~~

*g.* Section ~~1604.2~~ 1504.2 Plumbing Plan Submission. Delete the section.

*h.* Section ~~1604.5~~ 1504.5 Initial Cross-Connection Test. Modify the section by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction,” and by deleting the final sentence (“The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.”).

~~*i.* Subsection 1604.12.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction.”~~

~~*j.* Subsection 1604.12.2.2 Cross-Connection Test. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction.”~~

~~*k.* Subsection 1604.12.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”~~

**25.4(14)** The following amendments shall apply to UPC Chapter ~~17~~ 16:

*a.* Section ~~1702.2~~ 1602.2 Plumbing Plan Submission. Delete the section.

*b.* Section ~~1702.5~~ 1602.5 Initial Cross-Connection Test. Modify the section by deleting the second and third sentences (“Before the building is occupied or the system is activated, the installer shall perform

PUBLIC HEALTH DEPARTMENT[641](cont'd)

the initial cross-connection test in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction. The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.”).

c. Subsection ~~4702.11.2.1~~ 1602.11.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction.”

d. Subsection ~~4702.11.2.2~~ 1602.11.2.2 Cross-Connection Test. Modify the subsection by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction.”

e. Subsection ~~4702.11.2.3~~ 1602.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”

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[Published 5/10/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/10/17.

**ARC 3063C**

## **UTILITIES DIVISION[199]**

### **Adopted and Filed**

Pursuant to Iowa Code sections 476.2, 476B.10, 476C.7 and 17A.4, the Utilities Board (Board) gives notice that on April 13, 2017, the Board issued an order in Docket No. RMU-2016-0016, In re: Review of Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers Rules [199 IAC Chapter 31], “Order Adopting Amendments,” amending Chapter 31 of the Board’s rules.

The Board is undertaking a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these amendments is to promote ease of access for those interacting with the Board.

Notice of Intended Action was published in the March 1, 2017, Iowa Administrative Bulletin as **ARC 2955C**. Two parties, the Iowa Communications Alliance and the Office of Consumer Advocate, a division of the Iowa Department of Justice, filed comments. The Iowa Communications Alliance stated that it supports the amendments. The Office of Consumer Advocate stated that it has no objection to the amendments. MidAmerican Energy Company filed an appearance but did not provide any comments. The adopted amendments are identical to those published under Notice of Intended Action.

The order approving this Adopted and Filed rule making can be found on the Board’s Electronic Filing System Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0016.

After analysis and review of this rule making, the Board concludes that these amendments will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 476.72, 476.73, and 476.74.

These amendments will become effective June 14, 2017.

The following amendments are adopted:

ITEM 1. Amend rule 199—31.1(476) as follows:

**199—31.1(476) Applicability and definition of terms.** This chapter applies to all rate-regulated gas or electric public utilities and ~~rate-regulated telephone utilities providing local exchange telecommunication service~~. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

“Fully distributed cost” is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of regulated and nonregulated affiliate operations.

“Net book value” means the original purchase price minus depreciation.

## UTILITIES DIVISION[199](cont'd)

ITEM 2. Amend subrule 31.2(2) as follows:

**31.2(2) *Records to be maintained.*** The records maintained by each affiliate and made available for inspection through the public utility shall include, but not be limited to: ledgers; balance sheets; income statements—both consolidated and consolidating; documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; supporting documents and models for all forecasts of affiliates used by the public utility; all contracts, including summaries of unwritten contracts or agreements; a description of methods used to allocate revenues, expenses, and investments among affiliates or jurisdictions, including supporting detail; and copies of all filings required by other state and federal agencies.

ITEM 3. Rescind and reserve rule **199—31.4(476)**.

ITEM 4. Amend rule 199—31.9(476) as follows:

**199—31.9(476) *Waivers.*** Any public utility may file an application for waiver of the requirements of this chapter. The application shall include a detailed statement of why the waiver is in the public interest and shall otherwise comply with rule 199—1.3(17A,474,476).

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