IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XLVII July 10, 2024 NUMBER 1 Pages 1 to 302

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking
2024

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
Jan. 3 '24	Jan. 24 '24	Feb. 13 '24	Feb. 28 '24	Mar. 1 '24	Mar. 20 '24	April 24 '24	Jul. 22 '24
Jan. 19	Feb. 7	Feb. 27	Mar. 13	Mar. 15	April 3	May 8	Aug. 5
Feb. 2	Feb. 21	Mar. 12	Mar. 27	Mar. 29	April 17	May 22	Aug. 19
Feb. 16	Mar. 6	Mar. 26	April 10	April 12	May 1	June 5	Sep. 2
Mar. 1	Mar. 20	April 9	April 24	April 26	May 15	June 19	Sep. 16
Mar. 15	April 3	April 23	May 8	**May 8**	May 29	Jul. 3	Sep. 30
Mar. 29	April 17	May 7	May 22	May 24	June 12	Jul. 17	Oct. 14
April 12	May 1	May 21	June 5	June 7	June 26	Jul. 31	Oct. 28
April 26	May 15	June 4	June 19	**June 19**	Jul. 10	Aug. 14	Nov. 11
May 8	May 29	June 18	Jul. 3	Jul. 5	Jul. 24	Aug. 28	Nov. 25
May 24	June 12	Jul. 2	Jul. 17	Jul. 19	Aug. 7	Sep. 11	Dec. 9
June 7	June 26	Jul. 16	Jul. 31	Aug. 2	Aug. 21	Sep. 25	Dec. 23
June 19	Jul. 10	Jul. 30	Aug. 14	**Aug. 14**	Sep. 4	Oct. 9	Jan. 6 '25
Jul. 5	Jul. 24	Aug. 13	Aug. 28	Aug. 30	Sep. 18	Oct. 23	Jan. 20 '25
Jul. 19	Aug. 7	Aug. 27	Sep. 11	Sep. 13	Oct. 2	Nov. 6	Feb. 3 '25
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Aug. 14	Sep. 4	Sep. 24	Oct. 9	Oct. 11	Oct. 30	Dec. 4	Mar. 3 '25
Aug. 30	Sep. 18	Oct. 8	Oct. 23	**Oct. 23**	Nov. 13	Dec. 18	Mar. 17 '25
Sep. 13	Oct. 2	Oct. 22	Nov. 6	**Nov. 6**	Nov. 27	Jan. 1 '25	Mar. 31 '25
Sep. 27	Oct. 16	Nov. 5	Nov. 20	**Nov. 20**	Dec. 11	Jan. 15 '25	April 14 '25
Oct. 11	Oct. 30	Nov. 19	Dec. 4	**Dec. 4**	Dec. 25	Jan. 29 '25	April 28 '25
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PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
3	**Friday, July 19, 2024**	**August 7, 2024**
4	**Friday, August 2, 2024**	**August 21, 2024**
5	**Wednesday, August 14, 2024**	**September 4, 2024**

PLEASE NOTE:

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

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

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

COLLEGE STUDENT AID COMMISSION[283]

Governor Terry E. Branstad Iowa state fair scholarship program, rescind ch 36 IAB 7/10/24 **Regulatory Analysis**	State Board Room Grimes State Office Building Des Moines, Iowa	July 31, 2024 11 to 11:30 a.m.
Chiropractic graduate student forgivable loan program, rescind ch 32 IAB 7/10/24 **Regulatory Analysis**	State Board Room Grimes State Office Building Des Moines, Iowa	July 31, 2024 11 to 11:30 a.m.
Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program, rescind ch 25 IAB 7/10/24 **Regulatory Analysis**	State Board Room Grimes State Office Building Des Moines, Iowa	July 31, 2024 11 to 11:30 a.m.
Iowa teacher shortage loan forgiveness program, rescind ch 35 IAB 7/10/24 **Regulatory Analysis**	State Board Room Grimes State Office Building Des Moines, Iowa	July 31, 2024 11 to 11:30 a.m.

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Entrepreneur investment awards program, ch 102 IAB 6/26/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	July 16, 2024 1:30 to 1:45 p.m.
Innovative and other business development—demonstration fund and proof of commercial relevance; innovative and other business development—applied research and manufacturing extension partnership, chs 105, 108 IAB 6/26/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	July 16, 2024 1:45 to 2 p.m.
Strategic infrastructure program, ch 118 IAB 6/26/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	July 16, 2024 2 to 2:15 p.m.
Manufacturing 4.0 technology investment program, ch 119 IAB 6/26/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	July 16, 2024 2:15 to 2:30 p.m.

HUMAN SERVICES DEPARTMENT[441]

Optional 90-day supply for select medications, 78.2(6) IAB 6/26/24 **ARC 8084C**	Microsoft Teams Meeting ID: 256 591 168 664 Passcode: MVfyaH	July 23, 2024 11 to 11:30 a.m.
	Microsoft Teams Meeting ID: 256 326 064 144 Passcode: mhyryx	July 24, 2024 1:30 to 2 p.m.

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Multifamily housing, ch 3 IAB 7/10/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review/	July 30, 2024 1:15 to 1:30 p.m.
Red tape review, rescind chs 12, 20, 22, 23, 31, 36, 40 IAB 7/10/24 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review/	July 30, 2024 1 to 1:15 p.m.

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Employer child care tax credit, 304.58, 501.51, 601.26 IAB 6/26/24 **ARC 8071C**	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	July 16, 2024 11 a.m. to 12 noon July 16, 2024 2 to 3 p.m.

TRANSPORTATION DEPARTMENT[761]

Public records and fair information practices, ch 4 IAB 7/10/24 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 147 372 117	July 30, 2024 10 to 10:30 a.m.
Tourist-oriented directional signing, ch 119 IAB 7/10/24 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 648 499 699	July 30, 2024 3 to 3:30 p.m.

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Organization and operation, ch 1 IAB 7/10/24 **ARC 8105C**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	August 21, 2024 9 to 11 a.m. September 4, 2024 9 to 11 a.m.
Hazardous liquid pipelines and underground storage, ch 13 IAB 6/12/24 **Regulatory Analysis**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	July 30, 2024 1 p.m.

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Service supplied by rate-regulated electric utilities, ch 20 IAB 7/10/24 **Regulatory Analysis**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	August 1, 2024 9 a.m.
Energy efficiency and demand response planning and reporting for rate-regulated natural gas and electric utilities, ch 35 IAB 6/26/24 **Regulatory Analysis**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	July 17, 2024 2 p.m.
Crossing of railroad rights-of-way, ch 42 IAB 7/10/24 **ARC 8103C**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	July 30, 2024 9 to 10 a.m. August 6, 2024 9 to 10 a.m.
Electric interconnection of distributed generation facilities, ch 45 IAB 6/12/24 **Regulatory Analysis**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	July 18, 2024 2 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

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Customer and administrative services division, rescind ch 2 IAB 7/10/24 **ARC 8131C**	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa	July 30, 2024 9:30 to 10 a.m. July 30, 2024 1:30 to 2 p.m.
New Iowan centers, rescind ch 14 IAB 7/10/24 **ARC 8132C**	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa	July 30, 2024 10 to 10:30 a.m. July 30, 2024 2 to 2:30 p.m.

The following list will be updated as changes occur.
"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.
Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."
Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 25
"Rural Iowa Advanced Registered Nurse Practitioner and
Physician Assistant Loan Repayment Program"

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

State or federal law(s) implemented by the rulemaking: Iowa Code section 261.114 (repealed July 1, 2023)

Public Hearing

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

July 31, 2024 11 a.m.	State Board Room Grimes State Office Building Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission is proposing to rescind Chapter 25 pursuant to Executive Order 10. Iowa Code section 261.114 was repealed on July 1, 2023, so there is no further benefit of the chapter.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Iowans will not bear any costs related to the rescission of Chapter 25.

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

Iowa residents may benefit from the rescission of Chapter 25 since the rescission will eliminate information on a loan repayment program that no longer exists.

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

- Quantitative description of impact:

The rescission of Chapter 25 has no impact on costs.

- Qualitative description of impact:

The rescission of Chapter 25 has no impact on costs.

3. Costs to the State:

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

The rescission of Chapter 25 has no impact on costs.

- Anticipated effect on state revenues:

The rescission of Chapter 25 is not anticipated to have an impact on state revenues.

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

The benefit of rescinding Chapter 25 is eliminating obsolete information since Iowans can neither apply for nor receive the loan repayment award.

The cost of inaction would be confusion and unnecessary inquiries about the loan repayment program and the application process, both of which no longer exist.

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

Rescinding Chapter 25 is the most efficient approach under Executive Order 10.

6. Alternative methods considered by the agency:

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

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

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

The alternative methods were rejected because they would lead to informational burdens on students, families, Iowans in the workforce, and the Commission.

Small Business Impact

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

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

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

The rescission of Chapter 25 is not expected to have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **283—Chapter 25**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 32
"Chiropractic Graduate Student Forgivable Loan Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.203
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.203

Public Hearing

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

July 31, 2024	State Board Room
11 a.m.	Grimes State Office Building
	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission is proposing to rescind Chapter 32 pursuant to Executive Order 10. The program last received an appropriation in FY 2002 and is not operational with the exception of several accounts that are in default or in collections. The provisions in the chapter related to the servicing of the loan are duplicated in the promissory notes that each of these borrowers signed (the borrowers remain obligated to the debt under the promissory note), rendering the chapter obsolete.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Iowans will not bear any costs related to the rescission of Chapter 32.

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

Iowans may benefit from the rescission of Chapter 32 since the rescission will eliminate information on a forgivable loan for which new awards have not been made since the early 2000s.

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

- Quantitative description of impact:

The rescission of Chapter 32 has no impact on costs.

- Qualitative description of impact:

The rescission of Chapter 32 has no impact on costs.

3. Costs to the State:

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

The rescission of Chapter 32 has no impact on costs.

- Anticipated effect on state revenues:

The rescission of Chapter 32 is not anticipated to have an impact on state revenues.

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

The benefit of rescinding Chapter 32 is eliminating obsolete information since Iowans can neither apply for nor receive the forgivable loan.

The cost of inaction would be confusion and unnecessary inquiries about the forgivable loan and the application process, both of which are defunct.

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

Rescinding Chapter 32 is the most efficient approach under Executive Order 10.

6. Alternative methods considered by the agency:

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

No other methods were seriously considered since the method proposed is the most cost-efficient approach and eliminates potential confusion amongst Iowans seeking out funding for postsecondary education.

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

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

Small Business Impact

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

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

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

The rescission of Chapter 32 is not expected to have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **283—Chapter 32**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 35
"Iowa Teacher Shortage Loan Forgiveness Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.220
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.220

Public Hearing

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

July 31, 2024	State Board Room
11 a.m.	Grimes State Office Building
	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission is proposing to rescind Chapter 35 pursuant to Executive Order 10. 2017 Iowa Acts, House File 642, section 2, prohibits the making of new awards under the Iowa Teacher Shortage Loan Forgiveness Program but allows renewal applicants to continue to be considered for awards until they exhaust eligibility. The last renewal applicants received awards in FY 2020, and the program has not received an appropriation since FY 2019. The legislative directive has been administratively achieved, the program has been phased out, and there is no further benefit of the chapter.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Iowans will not bear any costs related to the rescission of Chapter 35.

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

Iowans may benefit from the rescission of Chapter 35 since the rescission will eliminate information on a program that has been phased out.

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

- Quantitative description of impact:

The rescission of Chapter 35 has no impact on costs.

- Qualitative description of impact:

The rescission of Chapter 35 has no impact on costs.

3. Costs to the State:

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

The rescission of Chapter 35 has no impact on costs.

- Anticipated effect on state revenues:

The rescission of Chapter 35 is not anticipated to have an impact on state revenues.

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

The benefit of rescinding Chapter 35 is eliminating obsolete information since Iowans can neither apply for nor receive funds from the loan forgiveness program.

The cost of inaction would be confusion and unnecessary inquiries about the program and the application process, both of which are defunct.

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

Rescinding Chapter 35 is the most efficient approach under Executive Order 10.

6. Alternative methods considered by the agency:

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

No other methods were seriously considered since the method proposed is the most cost-efficient approach and eliminates potential confusion amongst Iowans seeking funding for postsecondary education.

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

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

Small Business Impact

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

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

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

The rescission of Chapter 35 is not expected to have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **283—Chapter 35**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 36
"Governor Terry E. Branstad Iowa State Fair Scholarship Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.202
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.202

Public Hearing

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

July 31, 2024	State Board Room
11 a.m.	Grimes State Office Building
	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Commission is proposing to rescind Chapter 36 pursuant to Executive Order 10. The remaining funding under the Iowa State Fair Scholarship Program was depleted during the 2023-2024 academic year, and the scholarship will not be available thereafter. Therefore, the chapter is proposed to be rescinded to remove obsolete and unnecessary rules.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Iowans will not bear any costs related to the rescission of Chapter 36.

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

Iowans may benefit from the rescission of Chapter 36 since the rescission will eliminate information on a scholarship that Iowans cannot apply for or receive.

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

- Quantitative description of impact:

The rescission of Chapter 36 has no impact on costs.

- Qualitative description of impact:

The rescission of Chapter 36 has no impact on costs.

3. Costs to the State:

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

The rescission of Chapter 36 has no impact on costs.

- Anticipated effect on state revenues:

The rescission of Chapter 36 is not anticipated to have an impact on state revenues.

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

The benefit of rescinding Chapter 36 is eliminating obsolete information since Iowans can neither apply for nor receive the scholarship.

The cost of inaction would be confusion and unnecessary inquiries about the scholarship and the application process, both of which are unavailable.

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

Rescinding Chapter 36 is the most efficient approach under Executive Order 10.

6. Alternative methods considered by the agency:

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

No other methods were seriously considered by the Commission since the method proposed is the most cost-efficient approach and eliminates potential confusion amongst Iowans seeking scholarships or grants.

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

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

Small Business Impact

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

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

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

The rescission of Chapter 36 is not expected to have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **283—Chapter 36**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 265—Chapter 3 "Multifamily Housing"

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

Public Hearing

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

July 30, 2024	1963 Bell Avenue
1:15 to 1:30 p.m.	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), IFA proposes to rescind and adopt a new Chapter 3. The chapter describes the policies and procedures applicable to the Multifamily Loan Program. The purpose of the program is to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Entities that apply for and are approved for loans will bear the costs of the rulemaking.

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

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

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

- Quantitative description of impact:

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

- Qualitative description of impact:

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

3. Costs to the State:

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

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

- Anticipated effect on state revenues:

This proposed rulemaking has no fiscal impact. IFA is directed to make loans for various purposes by Iowa Code section 16.5C. The program is funded by moneys under the control of IFA pursuant to Iowa Code section 16.32.

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

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

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

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

6. Alternative methods considered by the agency:

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

IFA did not consider any other methods.

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

IFA did not consider any other methods.

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
MULTIFAMILY HOUSING

265—3.1(16) Purpose. Through the multifamily loan program (program) established pursuant to this chapter, the authority seeks to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state.

265—3.2(16) Application procedure. Applications will be reviewed by the authority upon receipt.

265—3.3(16) Eligibility.

3.3(1) Eligible applicants. As determined by the authority, to be eligible for a loan under the program, applicants shall:

a. Demonstrate a market need for the units.

b. Agree to observe certain compliance measures, including a recorded agreement to ensure long-term affordability.

c. Obtain a local contributing effort in an amount of up to 1 percent of the proposed loan when requested by the authority.

d. Agree to a change of management, general partner, or managing member when requested by the authority.

e. Agree to Multifamily Accelerated Processing (MAP) of the U.S. Department of Housing and Urban Development (HUD), when requested by the authority.

f. Agree to participate in the HUD Risk-Sharing Program, when requested by the authority.

g. Execute such documents and instruments as may be required by the authority.

h. Provide such information, certificates and other items requested by the authority.

i. Obtain a title guaranty certificate from the authority's title guaranty division protecting the authority's interest in the real property securing the loan, including any endorsements required by the authority, unless specifically waived by the authority.

3.3(2) Eligible projects. As determined by the authority, to be eligible for a loan under the program, projects shall:

a. Be financially feasible for at least the term of the assistance.

b. Have adequately funded replacement and operating reserve funds.

c. Consist of at least five housing units.

d. For the term of the loan, reserve at least 75 percent of the housing units for tenants whose income is at or below 80 percent of the area median income and whose rent is no more than 30 percent of the income of a family whose annual income is 80 percent or less of the area median income.

3.3(3) Loan terms.

a. Loans under this program may have a maximum loan term of 24 months for construction financing and 40 years for permanent financing.

b. Other terms and conditions of loans under this program may vary from project to project.

3.3(4) Maximum loan fees are as follows:

a. Commitment fee (construction period) - 1.0 percent of total development costs.

b. Commitment fee (permanent loan) - 2.0 percent of loan amount.

c. Inspection fee (construction period) - $500 per inspection; inspections will typically occur with each draw or on a monthly basis during construction.

d. Application fee - 0.3 percent of proposed loan amount.

e. Asset management fee - calculated as $25 per unit × number of total project units; submitted annually on or before January 31.

f. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program.

265—3.4(16) Multifamily loan program for workforce housing loan assistance.

3.4(1) *Eligible applicants.* To be eligible for a loan under this rule (the "primary loan"), applicants shall:

a. Be an Iowa city or county (the "borrower").

b. Agree to use the primary loan proceeds to make a loan to a third party to build housing in the applicant's jurisdiction that meets the requirements of this rule and subrules 3.3(1), 3.3(3), and 3.3(4) (the "secondary loan").

3.4(2) *Eligible projects.* As determined by the authority, to be eligible for a loan under this rule, projects shall:

a. Be financially feasible for at least the term of the assistance.

b. Have adequately funded replacement and operating reserve funds.

c. Consist of at least five housing units.

d. For the term of the loan, reserve at least 50 percent of the housing units rehabilitated or created with the proceeds of the secondary loan for families whose annual income at the time of leasing is at or below 120 percent of the area median income and whose rent is no more than 30 percent of the income of a family whose annual income is 120 percent or less of the area median income unless the authority agrees otherwise.

e. Preference shall be given to cities and counties that can document an increased need for housing as the result of new job creation within the city's or the county's jurisdiction.

3.4(3) *Loan terms.*

a. The primary loan is a general obligation of the borrower, but may be unsecured.

b. The borrower shall use funds received in repayment of the secondary loan first to make the scheduled principal and interest payments on the primary loan. Any secondary loan payments remaining after all then-due scheduled payments on the primary loan have been repaid may be reloaned by the borrower on the same basis as if such secondary loan payment amounts were proceeds of the primary loan.

265—3.5(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of directors of the authority. Meeting the eligibility criteria in these rules is not a guaranty of receiving funds. Authority staff will determine the necessary and appropriate procedures and processes for underwriting and analysis to further the purposes of this program. In addition, the authority anticipates that because of the complex nature of each transaction, and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program, as such may be revised from time to time.

These rules are intended to implement Iowa Code section 16.5C(1).

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 265—Chapters 12, 20, 22, 23, 31, 36, and 40
"Rescission of Chapters"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.2D, 16.5(1)"r," 16.35, 16.40, 16.48, and 2009 Iowa Acts, Senate File 376

State or federal law(s) implemented by the rulemaking: Iowa Code sections 16.2D, 16.35, 16.40, 16.46, and 16.48, and 2009 Iowa Acts, Senate File 376

Public Hearing

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

July 30, 2024	1963 Bell Avenue
1 to 1:15 p.m.	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), IFA proposes to permanently rescind the following obsolete and unnecessary chapters:

- Chapter 12, which describes the policies applicable to low-income housing tax credits (LIHTC) administered by IFA. 2024 Iowa Acts, Senate File 2387, amends Iowa Code section 16.35 so that IFA is no longer required to adopt rules specifying the application procedure and allowance of low-income housing tax credits. Those aspects of program administration are addressed in the qualified allocation plan (QAP) adopted by IFA pursuant to Internal Revenue Code Section 42 and the applicable Treasury regulations.
- Chapter 20, which describes the policies and procedures applicable to the Senior Living Revolving Loan Program. The policies and procedures of the program are established pursuant to Iowa Code section 16.46, and the applicable QAP adopted by IFA pursuant to Iowa Code section 16.35.
- Chapter 22, which describes the policies and procedures applicable to the Iowa Aftercare Services Rent Subsidy Program. The program was discontinued effective June 30, 2024.
- Chapter 23, which describes eligibility requirements and administration of the Transitional Housing Revolving Loan Program Fund. The fund assisted in the development of affordable housing for parents completing or participating in substance abuse treatment pursuant to Iowa Code section 16.48. The ongoing obligations of two loan recipients are addressed in a comprehensive loan agreement. The requirements of the program are sufficiently described in Iowa Code section 16.48 if

there is interest in the fund in the future, and the Iowa Code section does not require the authority to promulgate rules.

- Chapter 31, which describes the council on homelessness and its duties. 2024 Iowa Acts, Senate File 2385, amends Iowa Code section 16.2D to eliminate the council and assign its duties to IFA.
- Chapter 36, which describes the Public Service Shelter Grant Fund. The fund was established pursuant to 2009 Iowa Acts, Senate File 376, section 28, and discontinued in 2011.
- Chapter 40, which describes the Iowans Helping Iowans Housing Assistance Program. The program was established to provide financial assistance to eligible residents for the purpose of either repairing or rehabilitating eligible residents' disaster-affected homes or to purchase a home. The last loan issued under this program was in 2012, and loan agreements issued under this program have expired.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

The rescission of Chapters 12, 20, 22, 23, 31, 36, and 40 does not impose any costs.

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

Rescinding chapters for programs and activities that have been discontinued will provide clarity about the responsibilities of IFA. Rescinding chapters where there is no statutory requirement for IFA to promulgate rules will reduce unnecessary rules and streamline IFA's ongoing rule review.

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

- Quantitative description of impact:

The rescission of Chapters 12, 20, 22, 23, 31, 36, and 40 does not impose any costs.

- Qualitative description of impact:

Rescinding chapters for programs and activities that have been discontinued will provide clarity about the responsibilities of IFA. Rescinding chapters where there is no statutory requirement for IFA to promulgate rules will reduce unnecessary rules and streamline IFA's ongoing rule review.

3. Costs to the State:

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

IFA staff time will continue to be required to administer LIHTC and the Senior Living Revolving Loan Program.

- Anticipated effect on state revenues:

The rescission of chapters has no fiscal impact.

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

The rescission of Chapters 12, 20, 22, 23, 31, 36, and 40 does not impose any costs. Rescinding chapters for programs and activities that have been discontinued will provide clarity about the responsibilities of IFA. Rescinding chapters where there is no statutory requirement for IFA to promulgate rules will reduce unnecessary rules and streamline IFA's ongoing rule review.

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

IFA has not identified less costly methods or less intrusive methods.

6. Alternative methods considered by the agency:

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

IFA did not consider any other methods.

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

IFA did not consider any other methods.

Small Business Impact

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

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

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

The rescission of chapters does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **265—Chapter 12**.

ITEM 2. Rescind and reserve **265—Chapter 20**.

ITEM 3. Rescind and reserve **265—Chapter 22**.

ITEM 4. Rescind and reserve **265—Chapter 23**.

ITEM 5. Rescind and reserve **265—Chapter 31**.

ITEM 6. Rescind and reserve **265—Chapter 36**.

ITEM 7. Rescind and reserve **265—Chapter 40**.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 4
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 8A.615, 22.3, 22.11 and 321.11

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 22, 553 and 692; Iowa Code sections 8A.615, 17A.2, 17A.3, 21.5, 72.3, 80G.2, 80G.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §552 and 552a; 18 U.S.C. §2721 et seq.; and 42 U.S.C. §405

Public Hearing

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

July 30, 2024	Microsoft Teams Link
10 to 10:30 a.m.	Or dial: 515.817.6093
	Conference ID: 147 372 117

Public Comment

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

Kelly Popp
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1295
Email: kelly.popp@iowadot.us

Purpose and Summary

The purpose of this chapter is to facilitate broad public access to open records and sound determinations with respect to the handling of confidential records.

The following summarizes the changes within the proposed repromulgated chapter:

1. Update references to Iowa Code section 305.15, which is now Iowa Code section 8A.615.
2. Update references to specific Department divisions and bureaus.
3. Improve clarity of procedures and clarified requirements for access and availability of public records.
4. Reduce unnecessary restrictive language.
5. Remove unnecessary provisions or duplicative language already included in Iowa Code chapter 22.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Citizens, contractors and individual parties that request information from the Department to comply with the Iowa Open Records Law, Freedom of Information Act, litigation, or proceedings will bear the costs of the proposed rulemaking.

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

Any requester of information to comply with the Iowa Open Records, Freedom of Information Act, litigation, or proceedings will benefit from the proposed rulemaking.

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

- Quantitative description of impact:

The proposed chapter does not have a quantitative impact.

- Qualitative description of impact:

The proposed rulemaking provides government transparency and improved access to information for requesters.

3. Costs to the State:

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

Costs to the Department directly associated with the chapter include staff time and computer infrastructure related to implementing and administering a records management program. These resources are used for classifying, storing, managing, granting access to, and applying appropriate disposition of records in compliance with Iowa Code chapter 22 and for the fulfillment of records requests.

- Anticipated effect on state revenues:

The rules have no anticipated fiscal impact on state revenues.

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

There are no additional implementation costs in the proposed rules as compared to inaction.

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

No less costly methods or less intrusive methods exist to achieve this purpose.

6. Alternative methods considered by the agency:

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

No alternative methods were identified.

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

Not applicable.

Small Business Impact

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

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

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

The rules do not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

761—4.1(8A,22) General provisions.

4.1(1) *Purpose and scope.* It is the policy of the department that free and open examination of public records is generally in the public interest. The purpose of this chapter is to facilitate broad public access to open records and sound determinations with respect to the handling of confidential records. This chapter:

a. Describes the provisions governing public access to records that are owned by or in the physical possession of the department. However, access to personnel and payroll records may also be subject to the rules of the department of administrative services.

b. Does not affect the policy of the department to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

c. Does not make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the public or to any individual or party to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

4.1(2) *Custodian.* The custodian of a record is the person who heads the departmental office responsible for that record. The department's electronic Records Management Manual identifies the offices that are responsible for particular records.

a. As used in this chapter, the term "custodian" includes the custodian's superiors and the custodian's designees.

b. A custodian's designee may include but is not limited to the records center.

c. The custodian of a record is authorized to provide or deny access to that record in accordance with the provisions of this chapter. However, the custodian's authority to provide access to a confidential record is limited to the persons listed in subrule 4.3(2).

4.1(3) *Address of records center.* The address of the department's records center is: Records Center, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

4.1(4) *Records Management Manual.*

a. The department's electronic Records Management Manual contains the records management information required by Iowa Code section 8A.615, including descriptions of department records and their formats, management, maintenance, storage, retention, security, and disposal.

b. The manual also contains the descriptive information on records that is required by Iowa Code section 22.11. The manual is updated as needed, and its provisions are made a part of these rules.

c. The manual is available for examination and copying at the department's records center and at various other departmental offices located throughout the state. A copy of the manual may also be obtained, upon request, from the records center.

4.1(5) *Availability of open records.* Open records of the department are available to the public for examination and copying unless otherwise provided by state or federal law, regulation or rule.

4.1(6) *Warranty.* No warranty of the accuracy or completeness of a record is made.

4.1(7) *Existing records.* A request for access applies only to records that exist at the time the request is made and access is provided. The department is not required to create, compile or procure a record solely for the purpose of making it available. EXCEPTIONS: See Iowa Code section 22.3A and subrule 4.3(3).

4.1(8) *Definitions.* As used in this chapter:

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include

records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or another provision of law, but that may be disclosed upon order of the court, the custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Director" means the director of transportation or the director's designee.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about an individual in a record that identifies the individual and is retrievable by a unique personal identifier associated with the individual.

"Public" means those persons who are not officials, employees or agents of the department.

"Record" means the whole or a part of a "public record" as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

"Requester" means a member of the public.

This rule is intended to implement Iowa Code chapter 22 and section 8A.615.

761—4.2(22) Access to records.

4.2(1) *Submission of request for access.*

a. Submit a request for access to a record to the custodian of the record. If the requester does not know the identity of the custodian, the request may be submitted to the records center at the address in subrule 4.1(3). The records center will forward the request to the custodian.

b. Notwithstanding paragraph 4.2(1)*"a,"* any request that may be related to a potential or an actual tort claim or other litigation is to be submitted to: Attorney General's Office, Transportation Section, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. If the custodian receives a request of this nature, the custodian is to forward the request to the Attorney General's Office, Transportation Section.

c. If a request for access is misdirected, department personnel will forward the request to the custodian.

4.2(2) *Form of request.* A requester shall not be required to give reasons for requesting an open record.

4.2(3) *Response to request.* The custodian is to provide access to an open record promptly upon request. However, if the size or nature of the request makes prompt access infeasible, the custodian is to fill the request as soon as feasible and give the requester an estimate of when the record will be available.

4.2(4) *Delay.* Access to a record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian will inform the requester of the reason for the delay and the estimated length of the delay.

4.2(5) *Copies.* A photocopy of an open record may be made on department photocopiers. If a photocopier is not available in the office where an open record is kept, the custodian may permit the open record's examination in that office and, if requested, arrange to have a copy made elsewhere. Most department records are stored in electronic formats; therefore, if the requested record is electronic, an electronic copy will be provided. If the requester is unable to open and read an electronic copy, or if the record does not exist in electronic form, a hard copy may be provided.

4.2(6) *Fees.* The department may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. Under Iowa Code section 22.3, the fee for the copying service, whether electronic or hard copy, is not to exceed the cost of providing the service.

This rule is intended to implement Iowa Code sections 22.2, 22.3, 22.4, 22.8, 22.10 and 22.11.

761—4.3(22) Access to confidential records. The following provisions are in addition to those specified in rule 761—4.2(22) and are minimum requirements. A statute or another department rule

may impose additional requirements for access to certain classes of confidential records. A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department will not refuse to release the nonconfidential information simply because of the manner in which the record is compiled or stored.

4.3(1) *Procedure.*

a. Form of request. The custodian is to ensure that there is sufficient information to provide reasonable assurance that access to a confidential record may be granted. Therefore, the custodian may require the requester to:

(1) Submit the request in writing.

(2) Provide proof of identity and authority to secure access to the record.

(3) Sign a certified statement or affidavit listing the specific reasons justifying access to the record and provide any proof necessary to establish relevant facts.

b. Response to request. The custodian is to notify the requester of approval or denial of the request for access. If the requester indicates to the custodian that a written notice is desired if the request for access is denied, the custodian will provide such notice promptly. The notice is to be signed by the custodian and include:

(1) The name and title or position of the custodian, and

(2) A brief statement of the grounds for denial, including a citation to the applicable statute or other provision of law.

c. Reconsideration of denial. A requester whose request is denied by the custodian may apply to the director for reconsideration of the request.

4.3(2) *Release of confidential records by the custodian.* The custodian may release a confidential record or a portion of it:

a. To the legislative services agency pursuant to Iowa Code section 2A.3.

b. To the ombudsman pursuant to Iowa Code section 2C.9.

c. To other governmental officials and employees only as needed to discharge their duties.

d. To those persons as permitted or required by rule 761—4.9(22).

e. To persons authorized by the subject of the record in accordance with rule 761—4.4(22).

f. To the public information board pursuant to Iowa Code section 23.6.

4.3(3) *Information released.* If a person is provided access to less than an entire record, the department will take measures to ensure that the person is furnished only the information that is to be released. This may be done by providing to the person either an extraction of the information to be released or a copy of the record from which the information not to be released has been deleted.

This rule is intended to implement Iowa Code section 22.11.

761—4.4(22) Consent to release a confidential record to a third party. To the extent permitted by law, the subject of a confidential record may consent to the confidential record's release to a third party. The consent must be in writing and must identify the particular record that may be disclosed and the particular person or class of persons to whom the record may be disclosed. The subject of the record may be required to provide proof of identity. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record may be deemed to constitute consent for the department to disclose records about that person to the person's counsel.

This rule is intended to implement Iowa Code section 22.11.

761—4.5(22) Requests for confidential treatment.

4.5(1) A person may request that all or a portion of a record be confidential. The request must be submitted in writing to the custodian and:

a. Identify the information for which confidential treatment is sought.

b. Cite the legal basis that justifies confidential treatment.

c. Demonstrate that disclosure of the information would clearly not be in the public interest.

d. Give the reasons why any person or persons would be substantially and irreparably injured by disclosure of the information. The requester may be required to provide any proof necessary to support these reasons.

4.5(2) The custodian is to notify the requester in writing of the granting or denial of the request and, if denied, the reasons therefor.

4.5(3) If the request is denied, the requester may apply to the director for reconsideration of the request.

This rule is intended to implement Iowa Code sections 22.8 and 22.11.

761—4.6(22) Procedure by which additions, dissents, or objections may be entered into records. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record and be filed with the custodian. The statement must be dated and signed by the person who is the subject of the record and include the person's current address and telephone number. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any agency proceeding.

This rule is intended to implement Iowa Code section 22.11.

761—4.7(22) Notice to suppliers of information. When the department requests a person to supply information about that person, the department will notify the person of the use that will be made of the information, which persons outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these or other rules of the department, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, orally, or by other appropriate means.

This rule is intended to implement Iowa Code section 22.11.

761—4.8 Reserved.

761—4.9(22) Confidential records. This rule describes the types of departmental information or records that are confidential. This rule is not exhaustive. A citation of the legal authority for confidentiality follows each description. The following records will be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

Descriptions:

4.9(1) Records that are exempt from disclosure under Iowa Code section 22.7.

4.9(2) Records that constitute attorney work product, attorney-client communications, or are otherwise privileged. (Attorney work product is confidential under Iowa Code sections 22.7, 622.10 and 622.11; Iowa R.C. P. 1.503; Fed. R. Civ. P. 26(b)(3); and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Iowa Rules of Professional Conduct, and case law.)

4.9(3) Those portions of the department's staff manuals, instructions or other statements issued by the department that set forth criteria or guidelines to be used by its departmental staff in auditing, making inspections, settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the department. (Iowa Code section 17A.2)

4.9(4) The detailed minutes and recordings of closed sessions of the commission. However, if a closed session regards a real estate purchase or sale, the minutes and recording are to be available for public inspection when the transaction discussed is completed. (Iowa Code section 21.5)

4.9(5) Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code sections 321.266 and 321.271)

a. However, access will be granted to those persons authorized by Iowa Code section 321.271.

b. Reserved.

4.9(6) Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest, including but not limited to a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

a. However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29 unless access to such information is expressly denied by court order.

b. Reserved.

4.9(7) All information filed with the court for the purpose of securing a warrant for a search, including but not limited to an application and affidavits, until such time as a peace officer has executed the warrant and has made return thereon. (Iowa Code section 808.13)

a. During the period of time that information is confidential, it shall be sealed by the court, and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate or other court employee, in the course of official duties.

b. Reserved.

4.9(8) Information obtained by the department from the examining of reports, returns or records required to be filed or kept under the provisions of Iowa Code chapter 452A, except where disclosure is authorized by Iowa Code chapter 452A. (Iowa Code section 452A.63)

4.9(9) Sealed bids, until the time set for the public opening of bids, whereupon bids are unsealed and no longer confidential. (Iowa Code section 72.3)

4.9(10) Those records that, if disclosed, would diminish competition or would give an improper advantage to persons who are in an adverse position to the department. These records are to be kept confidential until the transaction to which they relate is consummated. However, if disclosure would reveal information that would hinder future competition, the records will be kept confidential. (Iowa Code sections 17A.2, 22.7 and 313.10; Iowa Code chapter 553; and 761—Chapter 20)

a. Examples of records that could, in the proper circumstances, be determined to be within this category include but are not limited to:

(1) Detailed estimates of the cost of a proposed contract.

(2) Economic analyses for determining pavement types.

(3) Negotiations for a proposed contract.

(4) Methodology for determining unfair bidding practices or bid rigging.

(5) Price quotations solicited.

(6) The value of points assigned to a bid rating formula prior to the time set for public opening of bids.

(7) Laboratory testing reports of suppliers' products. These may also be trade secrets. The subject of the report has the right of access to it.

b. Reserved.

4.9(11) Audit reviews for determining equal employment opportunity contract compliance. (Iowa Code section 22.7 and 5 U.S.C. §552 and 552a)

a. The subject of the audit review has the right of access to it.

b. Reserved.

4.9(12) All financial records and any information contained within them that are made available to the department, unless otherwise expressly permitted to be divulged by federal or state law. (Iowa Code sections 22.7 and 422.20 and 5 U.S.C. §552 and 552a)

4.9(13) Personal information in any motor vehicle record, including personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency

medical service providers, and other medical personnel responding to or assisting with an emergency. (Iowa Code sections 22.7 and 321.11 and 18 U.S.C. §2721 et seq.)

a. Information other than personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency may be disclosed only as provided in Iowa Code sections 321.11 and 321.11A, 18 U.S.C. §2721 et seq., and 761—Chapter 301.

b. The subject of the personal information has the right of access to the information.

4.9(14) A report received by the department from a physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 and licensed with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as having a physical or mental condition that would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

4.9(15) Privileged and personnel records or information of law enforcement officers and undercover law enforcement officers, as specified in Iowa Code sections 80G.2 and 80G.3, as well as certain records regarding undercover driver's licenses issued to certified peace officers employed by a local authority or by the state or federal law enforcement officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7, 80G.2, 80G.3 and 321.189A)

a. The subject of the record and the head of the law enforcement agency employing the subject have the right of access to the record.

b. Reserved.

4.9(16) Records related to confidential plates issued for government vehicles. (Iowa Code section 321.19)

a. The head of the agency to which the vehicle is assigned has the right of access to the record.

b. Reserved.

4.9(17) Certified transcripts of labor payrolls (also known as certified payroll records) filed by contractors for federal-aid construction contracts, in accordance with the following paragraphs. (Iowa Code section 22.7, 5 U.S.C. §552 and 552a, and 42 U.S.C. §405)

a. The social security numbers in a certified payroll record are confidential. The record itself may be confidential if its release would give advantage to competitors and serve no public purpose.

b. The prime contractor and subcontractor, if applicable, that filed the record have the right of access to it.

c. Certified payroll records are to be released to the U.S. Department of Labor and Federal Highway Administration during investigations.

d. The custodian may release a certified payroll record with social security numbers withheld to representatives of the Iowa Labor Management Work Preservation Fund.

e. The custodian may release a certified payroll record with social security numbers withheld to persons outside the department other than the persons listed in paragraphs 4.9(17)*"b"* through *"d"* according to the following procedure:

(1) The request for the record must be in writing.

(2) The custodian is to send a copy of the request by registered mail to the prime contractor. If the request is for subcontractor information, the custodian is to send copies of the request to both the subcontractor and prime contractor.

(3) The requested record may be released after 14 calendar days have expired from receipt of the request by the contractor(s) to give the contractor(s) an opportunity to seek an injunction.

4.9(18) Information concerning an open or pending railroad accident investigation conducted on behalf of or in conjunction with the Federal Railroad Administration or National Transportation Safety Board to the extent necessary to prevent denial of funds, services or essential information from the United States government. (Iowa Code section 22.9)

4.9(19) A geographic computer database, except upon terms and conditions acceptable to the department. (Iowa Code section 22.2)

4.9(20) Confidential information, as defined in Iowa Code section 86.45, filed with the workers' compensation commissioner. (Iowa Code section 22.7)

4.9(21) An intelligence assessment and intelligence data under Iowa Code chapter 692, except where disclosure is required or authorized by the Iowa Code. (Iowa Code chapter 692 and Iowa Code section 22.7)

4.9(22) Information in a record that would permit the commission, subject to Iowa Code chapter 21, to hold a closed session pursuant to Iowa Code section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information or unless otherwise authorized by the Iowa Code. (Iowa Code section 22.7)

4.9(23) All other information or records that by law are or may be confidential.

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 17A.2, 21.5, 72.3, 80G.2, 80G.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §552 and 552a; 18 U.S.C. §2721 et seq.; and 42 U.S.C. §405.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 119
"Tourist-Oriented Directional Signing"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.252 as amended by 2024 Iowa Acts, Senate File 2385, section 317

State or federal law(s) implemented by the rulemaking: Iowa Code section 321.252 as amended by 2024 Iowa Acts, Senate File 2385, section 317

Public Hearing

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

July 30, 2024	Microsoft Teams Link
3 to 3:30 p.m.	Or dial: 515.817.6093
	Conference ID: 648 499 699

Public Comment

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

Brooks Glasnapp
Advertising Management
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1255
Email: brooks.glasnapp@iowadot.us

Purpose and Summary

The purpose of Chapter 119 is to establish standards and conditions for the Department's system of blue directional signs along highways in rural areas and small towns in Iowa. These signs identify and provide directional information for businesses and sites that may be of interest to the traveling public. The design of these signs and the qualifying standards for businesses must conform to the Manual on Uniform Traffic Control Devices (MUTCD) as adopted pursuant to Iowa Code section 321.252.

This chapter was significantly revised in early 2023, relaxing many of the entry qualifications for business owners interested in the program. Since that review was not subject to Executive Order 10, this review was conducted to meet the Executive Order 10 objectives, including the reduction of unnecessarily restrictive language, redundancies, and general overall volume. The relaxed entry qualifications remain unchanged in the repromulgated version, but an additional change is the elimination of the Tourist Signing Committee. This committee has provided a benefit for the program over the years by the committee's diverse representation and input during rulemaking and review of applications. However, with the more relaxed entry qualifications from the 2023 rule amendments in place, and because 2024 Iowa Acts, Senate File 2385, section 317, amended Iowa Code section 321.252(3) to eliminate the Tourist Signing Committee, this additional layer of review and associated processing time can be eliminated.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

This voluntary signing program has been in place for many years. The business owners who apply for sign permits from the Department, including the logo signs and billboards, as well as this program, fund the operation of the Advertising Management section of the Department. The fund operates generally in a net-neutral fashion each year, with salaries, benefits, equipment, and fuel expenses roughly equaling the revenue brought in from the permits. This was the intent of the Iowa legislature in the early 1970s, as evident in Iowa Code section 306C.11(2)"b."

The cost to participate in this program depends upon the number of signs utilized, but typically totals about $700 for a set of two signs, with an annual renewal fee of $100. The fees have not been increased since 1996, and nonprofit organizations are exempted for a standard application of signs.

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

Business owners benefit from the program, especially if they have not been able to secure an advertising permit for a sign on private property. State law prohibits the erection of private advertising signs along the primary highway system unless the location is zoned commercial or industrial. Many of the program's participating businesses do not have highway frontage and are often in the rural areas where the zoning is classified as agricultural. This program allows for them to gain that highway exposure by the placement of state-sponsored signs within the right-of-way and directly in advance of the intersection that leads to the business.

The traveling public benefits from the program by being provided with information on motorist services, attractions and businesses of interest within a ten-mile distance from the highway. These areas might not otherwise have signing options available due to state regulations restricting the placement of outdoor advertising signs in the rural areas and residential zones.

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

- Quantitative description of impact:

No quantitative impact is expected with the proposed repromulgated chapter. The program entry requirements and participation fees are staying the same. The costs of the program are generally covered by the Highway Beautification Fund, established by the Iowa Legislature in 1972.

- Qualitative description of impact:

No qualitative impact is expected with the proposed repromulgated chapter. The only substantive change being proposed is the elimination of the Tourist Signing Committee due to the passage of 2024 Iowa Acts, Senate File 2385, section 317. This change will mean that the Department reviews and makes decisions on applications for signs and directs policy development independently rather than running these recommendations through the Committee for approval. This is similar to other signing programs administered by the Department and will reduce the paperwork and processing time for applications. The signing program is voluntary and has existed for many years. It provides a service to both the highway traveler and business owner.

3. Costs to the State:

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

The operating costs for this program are generally covered by the advertising permit fees received in the Advertising Management section of the Department. These fees are from the logo signing, billboard permitting, and tourist-oriented directional sign programs administered by the section and are deposited into the Highway Beautification Fund. The salaries, benefits, vehicles, and fueling costs are paid out of this fund, although some labor and equipment costs for the installation of signs are paid out of the Primary Road Fund. In calendar year 2023, only 12 new sets of signs were installed, so the cost to the Primary Road Fund is minor.

Administration of the program is handled with 50 percent of one full-time employee's time. The employee's current salary with benefits included totals approximately $96,000. Therefore, the cost to administer the program is about $48,000. The revenue generated is only about $35,000, but other revenue, especially from the logo signing program, make up for the difference. Total operating cost for the section is approximately the same as the total revenue, $950,000. Revenue is generally consistent from year to year, while operating costs see mild fluctuations with position vacancies, cost-of-living increases, and new hires coming in at a lower cost.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues. Program participation fees are deposited into the Highway Beautification Fund, which exists for the purpose of administering this program, as well as the logo signing and billboard permitting programs. The participation fees are not being increased in this proposed repromulgation and have not been increased since 1996.

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

This signing program is voluntary and considered a benefit to business owners and the traveling public. If the chapter is rescinded with no repromulgated replacement, the Department would have to grandfather the existing signs, or remove them. A substantial labor and time cost would be incurred with removal; approximately 330 businesses are currently participating with at least two sign installations per business. In contrast, maintaining the program involves a manageable labor cost, consisting of approximately 50 percent of one full-time employee's time from the central office, and some expense from district crews to install or remove signs. In calendar year 2023, only 12 new applications were reviewed, so about 24 new signs were installed. These signs are relatively small (18 by 72 inches) and are installed with two posts by district crews.

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

In early 2023, this chapter was revised, relaxing the entry requirements for business owners interested in the signing program. The entry requirements are now at the minimum level required by the federal standards in the MUTCD. Most businesses open to the public for at least 20 hours per week and located in a nonurban area within ten miles of a primary highway can now qualify. The proposed repromulgated chapter takes it a step further by eliminating the Tourist Signing Committee, shortening the approval time frames for applicants. Participation fees have been held at the same level since 1996.

6. Alternative methods considered by the agency:

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

A more lenient approach to setting entry requirements was evaluated and adopted in the early 2023 rule amendments, shortly before the Executive Order 10 review project was initiated at the Department. This more lenient approach follows the states of New York, Vermont, and Maine. Rather than evaluating an application based on its value to tourism, essentially all businesses that are open to the general public can qualify, provided certain basic locational requirements are met in accordance with the MUTCD. Furthermore, those rule amendments lowered the minimum hours of operation needed to qualify from 40 per week (depending upon the type of business) to 20 per week, across the board, for any business owner who is interested. As already described, the proposed repromulgated chapter will further compliment the Executive Order 10 effort by eliminating the Tourist Signing Committee and associated processing time in the approval process.

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

Not applicable.

Small Business Impact

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

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

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

The small business impact was the motivating reason for the rigorous review that occurred shortly before Executive Order 10, resulting in the early 2023 amendments. These amendments eliminated more stringent criteria, including hours of operation and an emphasis on whether the destination was of significant tourist value. The requirements are now at the bare minimum standards set in the MUTCD, with most businesses open to the public for a mere 20 hours per week being eligible for participation. The proposed repromulgated chapter compliments the Executive Order 10 effort further by eliminating the Tourist Signing Committee as a necessary review step in the approval process. This will shorten the approval time frame and could theoretically reduce the number of application denials.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 119 and adopt the following **new** chapter in lieu thereof:

CHAPTER 119
TOURIST-ORIENTED DIRECTIONAL SIGNING

761—119.1(321) Definitions.

"At-grade intersection," for the purpose of this chapter, means an intersection of a primary highway and a secondary roadway, municipal street, or other primary highway, in which traffic may pass through the intersection at the same grade level as the intersecting roadway, or turn directly onto the intersecting roadway without the use of a ramp.

"Destination," for the purpose of this chapter, means a business, service, activity, or site that meets the program requirements established in rule 761—119.3(321).

"Primary highway," for the purpose of this chapter, means those roads and streets both inside and outside the boundaries of municipalities that are under department jurisdiction but does not include an interstate highway or a freeway primary highway as defined in Iowa Code section 306C.10.

"Tourist-oriented directional signing" means a system of guide signs with one or more sign panels that display the identification of and directional information for an eligible destination.

761—119.2(321) General.

119.2(1) *Conformance to MUTCD.* The department administers the tourist-oriented directional signing program in conformance with the "Manual on Uniform Traffic Control Devices" (MUTCD), as adopted in rule 761—130.1(321).

119.2(2) *Spacing and location.*

a. Tourist-oriented directional signing may be installed only when sufficient space is available. The determination of whether sufficient space is available is the responsibility of the department in accordance with the MUTCD and department policies.

b. Tourist-oriented directional signing may be installed only in advance of at-grade intersections where the motorist leaves the primary highway system to travel to the destination. Tourist-oriented directional signs may also be placed on a higher-classified highway to direct motorists onto a lower-classified highway, or on a greater-traveled highway to direct motorists onto a lesser-traveled highway, provided the signs are placed in advance of an at-grade intersection.

c. Tourist-oriented directional signing is limited to the rural areas and towns that are located outside of any urban areas established by the U.S. Census Bureau for incorporated municipalities with a population that meets or exceeds 5,000.

119.2(3) *Message.* The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, the travel distance to the destination, and in some cases for motorist services, an additional short word or acronym indicating an essential fuel type such as diesel, E-85, or EV (electric vehicle charging station).

761—119.3(321) Eligibility for participation. Participation in this signing program is limited to destinations that meet the following criteria:

119.3(1) The destination is open to the general public for a minimum of four days per week and 20 hours per week. These hours are exclusive of any hours of operation that are by appointment, reservation or membership. The hours are conspicuously posted on the premises except for destinations that are open 24 hours per day.

119.3(2) Entrance to the destination is not granted based on age.

119.3(3) The destination derives a major portion of income or visitors from road users not residing in the area of the destination.

119.3(4) The destination is properly licensed by governing authorities relative to the nature of the activity engaged in by the destination.

119.3(5) The destination is located within ten miles of the intersection on the primary highway where the tourist-oriented directional signs will be placed.

119.3(6) The destination is located outside the boundaries of any urban area established by the U.S. Census Bureau for an incorporated municipality with a population that meets or exceeds 5,000.

119.3(7) The destination is not visible from the primary highway in a way that allows motorists time to safely react and make the turn. This program is not intended for businesses that enjoy adequate highway frontage for the placement of on-site signing.

119.3(8) The destination consists of buildings, facilities, and grounds that are safe, suitable, and appropriately designed and maintained for the intended purpose. If residential quarters co-exist in the same building, a convenient, well-marked, and separate entrance is available for patrons to access the activity identified on the sign.

119.3(9) The destination complies with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.

119.3(10) The destination complies with Iowa Code chapters 306B, 306C and 306D.

119.3(11) The destination, if seasonally operated, is open for a minimum of four consecutive weeks.

761—119.4(321) Application and approval procedure.

119.4(1) Applications for tourist-oriented directional signing may be submitted to: Advertising Management Section, Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Information regarding the program may be accessed at www.iowadot.gov/iowaroadsigns or 515.239.1746.

119.4(2) The department may conduct measurements, take photographs, and collect information about destinations as necessary for evaluation purposes.

119.4(3) Applications that meet the requirements of this chapter will be approved.

119.4(4) Applications that do not meet the requirements of this chapter will be denied. The applicant will be informed of the reason for the denial.

761—119.5(321) Installation, maintenance, replacement and removal.

119.5(1) *Installation and maintenance of tourist-oriented directional signs.* Except as provided in subrule 119.5(4), the department will fabricate and perform the installation, maintenance, removal and replacement of tourist-oriented directional signs that are located within the right-of-way.

a. Upon approval of an application, the department will design the tourist-oriented directional sign and provide a scaled drawing of the tourist-oriented directional sign to the applicant, allowing the applicant to reconfirm interest before proceeding with fabrication.

b. Upon payment of the initial fee specified in subrule 119.5(3), the department will fabricate and install the tourist-oriented directional sign.

119.5(2) *Installation and maintenance of trailblazing signs.* Trailblazing signs are necessary when the destination is not located adjacent to the intersecting roadway.

a. The department may fabricate trailblazing signs and provide them to cities and counties for installation on secondary roads and city streets, if such placement does not violate any local ordinance, policy, or traffic manual.

b. The department will consult with the local authority to confirm that placement of a trailblazing sign is possible to guide the motorist to the destination.

c. Tourist-oriented directional signs may be installed only when all trailblazing signs may also be installed.

119.5(3) *Initial and renewal fees.* The initial fee, payable once an application is approved, is $350 for each 72″ × 18″ sign placed along the primary highway and $26 for each trailblazing sign placed along a nonprimary highway. These fees include the cost of sign fabrication and installation but do not include any additional requested fees by local jurisdictions for the placement of trailblazing signs along local road systems. The annual renewal fee, payable on or before June 30 of each year, is $50 per sign, excluding trailblazing signs. This fee covers the administrative costs and normal maintenance.

119.5(4) *Seasonal destination.*

a. Seasonal destinations may be approved for the program if "closed" panels are installed over the directional information when the destinations are not open for the season or when the hours of operation are not meeting the minimum listed in subrule 119.3(1).

b. Destinations such as golf courses and Christmas tree farms where the expected seasonal period is generally known by motorists may forego the use of "closed" panels.

c. Destinations using "closed" panels may arrange to remove or reinstall the panels on their own through an agreement with the department or pay a fee to the department to perform the service. The fee is $40 per trip and includes all signs associated with the destination that are located along the primary highway system.

119.5(5) *Replacement.* Tourist-oriented directional signs are constructed with high-quality materials designed to last many years. The department may, however, determine that a tourist-oriented directional sign needs to be replaced due to damage from vehicles, deterioration from age, or loss due to theft. In these cases, the cost for replacing the sign is the responsibility of the destination.

119.5(6) *Not-for-profit organizations.* A not-for-profit destination is exempted from all fees and costs associated with the installation and maintenance of a single set of signs at a location determined by the department to be the most reasonable approach to the destination. Additional locations may be requested by the not-for-profit organization, and if approved, such locations are subject to the associated fees and costs described in this chapter.

119.5(7) *Removal.* The department may remove a tourist-oriented directional sign if the destination no longer qualifies for tourist-oriented directional signing. As official signs, all removed tourist-oriented directional signs are retained as property of the department unless released to the destination for purposes other than display along any public roadway.

These rules are intended to implement Iowa Code section 321.252.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 20
"Service Supplied by Rate-Regulated Electric Utilities"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.1, 476.1B, 476.2, 478.19, and 478.20

State or federal law(s) implemented by the rulemaking: Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18, and 546.7

Public Hearing

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

August 1, 2024 9 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

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

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITsupport@iuc.iowa.gov

Purpose and Summary

Proposed Chapter 20 promotes safe and adequate service to the public, provides standards for uniform and reasonable practices by rate-regulated utilities, and establishes a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Because the proposed chapter provides standards for practices by rate-regulated utilities and actions a utility must be prepared to respond to, the costs are paid for by the utilities. Dependent upon the type of costs, the costs may be passed on to ratepayers.

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

All persons benefit from the provision of safe and adequate service to the public as well as standardized practices by utilities to ensure receipt of adequate and similar service regardless of the utility that is providing the service.

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

- Quantitative description of impact:

There are additional costs to the utilities related to these service requirements and standards and practices that must be followed. Additional costs include personnel time to ensure that the standards

are being followed and any required filings are made to the Commission in a timely manner. If ratepayers need assistance, there is also a temporal cost.

- Qualitative description of impact:

These standards and service requirements help ensure that electric customers are provided with adequate and consistent service regardless of which electric utility is providing service and that the service is being provided in a safe manner to protect customers and those around the facilities.

3. Costs to the State:

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

There are no additional costs to any agency other than the normal costs the Commission has for standard operations of the Commission.

- Anticipated effect on state revenues:

There are no anticipated effects on state revenues.

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

Inaction would have increased costs of not providing the service requirements and standards for reasonable practices by utilities in that there would be no consistent and ensured electric service for the customers throughout Iowa. The benefits of ensuring safe and reliable electric service and reasonable practices by electric utilities outweigh the costs of the proposed chapter.

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

The provisions of these standards for uniform and reasonable utility practices, the demands that utilities can have placed on them, and the service requirements are the least costly and intrusive method for achieving the purpose of the rules.

6. Alternative methods considered by the agency:

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

The alternative method to achieve these purposes would be to use and follow national standards referenced within the chapter.

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

These national standards are effective reference material but do not have sufficient specificity to cover all issues and concerns relating to the electric utility service within Iowa.

Small Business Impact

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

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

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

There are no anticipated small business impacts.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
SERVICE SUPPLIED BY RATE-REGULATED ELECTRIC UTILITIES

199—20.1(476) General information.

20.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities commission shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content, and filing of reports, documents, and other papers necessary to carry out the provisions of this law.

a. Iowa Code chapter 478 provides that the Iowa utilities commission shall have power to make and enforce rules relating to the location, construction, operation, and maintenance of certain electrical transmission lines.

b. Electric utilities with fewer than 10,000 customers subject to commission regulation pursuant to Iowa Code section 476.1A are subject to the regulatory requirements set out in 199—Chapter 27 for municipal electric utilities and electric cooperatives.

20.1(2) *Application of rules.* These rules shall apply to any rate-regulated electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation, and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the commission that are in conflict with these rules.

a. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

b. The adoption of these rules shall in no way preclude the commission from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

20.1(3) *Definitions.* The following words and terms, when used in these rules, shall have the meaning indicated below:

"Acid Rain Program" means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

"Act" means the Clean Air Act, 42 U.S.C. Section 7401, et seq, as amended on November 15, 1990.

"Affected unit" means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the CAIR, the CSAPR, or the MATS or a unit or source that opts in under 40 CFR Part 74, dated April 4, 1995.

"Allowance" means an authorization, allocated by the United States Environmental Protection Agency (EPA), to emit sulfur dioxide (SO_2) under the Acid Rain Program or SO_2 and nitrogen oxide (NO_X) under the CAIR, and the CSAPR during or after a specified calendar year.

"Allowance futures contract" means an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

"Capacity" means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts (kW).

"Clean Air Interstate Rule" or *"CAIR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

"Code of Federal Regulations" or *"CFR"* means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of [effective date of these rules], unless a separate effective date is identified in a specific rule.

"Complaint" means a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.

"Compliance plan" means the document submitted for an affected source to the EPA that specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

"Cross-State Air Pollution Rule" or *"CSAPR"* means the requirements established by the EPA in 40 CFR 97 Subparts AAAAA, BBBBB, CCCCC, and DDDDD as amended by 81 FR 13275 (March 14, 2016).

"Customer" means any person, firm, association, or corporation; any agency of the federal, state, or local government; or any legal entity responsible by law for payment for the electric service or heat from the electric utility.

"Delinquent" or *"delinquency"* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

"Distribution line" means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Electric plant" includes all real estate, fixtures, and property owned, controlled, operated, or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

"Electric service" means furnishing to the public for compensation any electricity, heat, light, power, or energy.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_X emission allowances.

"Energy" means electric energy measured in kilowatt hours (kWh).

"Mercury and Air Toxics Standards" or *"MATS"* means the requirements established by the EPA in 40 CFR Parts 60 and 63 regarding limits of power plant emissions of toxic air pollutants (February 16, 2012).

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Power" means electric power measured in kW.

"Price hedging" means using futures contracts or options to guard against unfavorable price changes.

"Rate-regulated utility" means any utility, as defined in subrule 20.1(3), that is subject to rate regulation under Iowa Code chapter 476.

"Secondary line" means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Service limitation" means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer's meter.

"Service limiter" or *"service limitation device"* means a device that limits a residential customer's power consumption to 3,600 watts (or some higher level of usage approved by the commission) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

"Speculation" means using futures contracts or options to profit from expectations of future price changes.

"Tariff" means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the commission by an electric utility in fulfilling its role of furnishing service.

"Timely payment" means a payment on a customer's account made on or before the date shown on a current bill for service, or on a form, which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date that determines application of a late payment charge to the current bill or future collection efforts.

"Transmission line" means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Uniform system of accounts" means the uniform system of accounts as effective on October 11, 2016.

"Utility" means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

"Vintage trade" means an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

"Weighted average unit cost of inventoried allowances" equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

20.1(4) *Abbreviations.* The following abbreviations, when used in these rules, have the following meanings:

ANSI—American National Standards Institute

DOE—Department of Energy

FERC—Federal Energy Regulatory Commission

NFPA—National Fire Protection Association

This rule is intended to implement Iowa Code sections 476.1, 476.1A, and 476.2.

199—20.2(476) Records, reports, and tariffs.

20.2(1) *Location and retention of records.* Unless otherwise specified by this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

20.2(2) *Tariffs to be filed with the commission.* The schedules of rates and rules of rate-regulated electric utilities shall be filed with the commission and shall be classified, designated, arranged, and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification, and content of tariffs shall be in accordance with these rules. A rate-regulated electric utility's current tariff will be made available through the commission's electronic filing system (EFS).

20.2(3) *Form and identification.* All tariffs shall conform to the following rules:

a. The tariff shall be filed electronically using the commission's EFS. The filed tariff shall be capable of being reproduced on 8½- × 11-inch paper so customers may readily view and reproduce copies of the tariff. A tariff filed with the commission may be the same format as is required by a federal agency provided that the rules of the commission as to title page; identity of superseding, replacing, or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words "Electric Tariff filed with Iowa Utilities Commission" shall apply in the modification of the federal agency format for the purposes of filing with this commission.

b. The title page of every tariff and supplement will show:

(1) The first page shall be the title page that shall show:

(Name of Public Utility)
Electric Tariff
Filed with
Iowa Utilities Commission

(Date)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it supersedes a tariff on file and the number being superseded or replaced, for example:

TARIFF NO. _____

SUPERSEDES TARIFF NO. _____

(3) When a new part of a tariff eliminates an existing part of a tariff, it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols described below to indicate the place, nature, and extent of the change in text.

—Symbols—

(C)—Changed regulation

(D)—Discontinued rate or regulation

(I)—Increase in rate or new treatment resulting in increased rate

(L)—Changed text location

(N)—New rate, treatment, or regulation

(R)—Reduction in rate or new treatment resulting in reduced rate

(T)—Change in text only

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility, followed by the words "Electric Tariff filed with Iowa Utilities Commission." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Electric Tariff	(This sheet identification)
Filed with commission	(Canceled sheet identification, if any)
	(Content or tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the commission. The utility may propose an effective date in the cover letter or interpretation submitted with the tariff. In lieu of a proposed effective date, the utility can provide the date of the month the utility would like the tariff to become effective in the cover letter or interpretation.

20.2(4) *Content of tariffs.*

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet numbers of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing the rate schedules or other sections, it may at its option prepare a separate table of contents for each such segregated section.

b. A preliminary statement containing a brief general explanation of the utility's operations.

c. All rates for service with indication for each rate of the type and voltage of service and the class of customers to which it applies. There shall also be shown any limitations on loads and type of equipment that may be connected, the net prices per unit of service and the number of units per billing period to which the net prices apply, the period of billing, the minimum bill, any effect of transformer capacity upon minimum bill or upon the number of kWh in any step of the rate, method of measuring

demands, method of calculating or estimating loads in cases where transformer capacity has a bearing upon minimum bill or size of rate steps, level payment plan, and any special terms or conditions applicable. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

d. The voltage and type of service (direct current or single or polyphase alternating current) supplied in each municipality but without reference required to any particular part thereof.

e. Forms of standard contracts required of customers for the various types of service available.

f. If service to other utilities or municipalities is furnished at a standard filed rate, either a copy of each signed contract or a copy of the standard uniform contract form together with a summary of the provisions of each signed contract. The summary shall show the principal provisions of the contract and include the name and address of the customer, the points where energy is delivered, rate, term, minimum, load conditions, voltage of delivery, and any special provisions such as rentals.

g. Copies of special contracts for the purchase, sale, or interchange of electrical energy. All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

h. A list of all communities in which service is furnished.

i. The list of service areas and the rates, filed in a form to facilitate ready determination of the rates available in each municipality and in unincorporated communities that have service. Any areas with the same rates shall be indicated.

j. Definitions of classes of customers.

k. Extension rules for extending service to new customers indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included.

l. Type of construction that the utility requires the customer to provide if in excess of the Iowa electric safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent.

m. Specification of such portions of service as the utility furnishes, owns, and maintains, such as service drop, service entrance cable or conductors, conduits, service entrance equipment, meter and socket. Indication of the portions of interior wiring such as range or water heater connection, furnished in whole or in part by the utility, and a statement indicating final ownership and responsibility for maintaining equipment furnished by utility.

n. A statement of the type of special construction commonly requested by customers that the utility allows to be connected, and terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

o. Rules with which prospective customers must comply as a condition of receiving service and the terms of contracts required.

p. Rules governing the establishment and maintenance of credit by customers for payment of service bills.

q. Rules governing the procedure followed in disconnecting and reconnecting service.

r. Notice required from a customer for having service discontinued.

s. Rules covering temporary, emergency, auxiliary, and stand-by service.

t. Rules covering the type of equipment that may or may not be connected, including rules such as those requiring demand-limiting devices or power-factor corrective equipment.

u. A general statement of the method used in making adjustments for wastage of electricity when accidental grounds exist without the knowledge of the customer.

v. Statements of utility rules on meter reading, bill issuance, customer payment, notice of delinquency, and service discontinuance for nonpayment of bill.

w. Rules for extending service in accordance with subrule 20.3(11).

x. If a sliding scale or automatic adjustment is applicable to regulated rates and charges of billed customers, the manner and method of such adjustment calculation, covered through a detailed explanation.

y. Rules on how a customer or prospective customer should file a complaint with the utility and how the complaint will be processed.

z. Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

20.2(5) *Annual, periodic and other reports to be filed with the commission.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with the general requirements of subrule 20.3(9) and a statement as to the location of the utility's offices where such maps, except those deemed confidential by the commission, are accessible and available for examination by the commission or its agents. The verification and map location information shall also be reported to the commission upon other occasions when significant changes occur in either the maps or location of the maps.

b. Electric service record. Each utility shall compile a monthly record of electric service showing the production, acquisition, and disposition of electric energy; the number of customer terminal voltage investigations made; the number of customer meters tested; and such other information as may be required by the commission. The monthly "Electric Service" record shall be compiled not later than 30 days after the end of the month covered, and such record shall, upon and after compilation, be kept available for inspection by the commission or its staff at the utility's principal office within the state of Iowa. A summary of the 12 monthly "Electric Service" records for each calendar year shall be attached to and submitted with the utility's annual report to the commission.

c. The utility shall keep the commission informed currently by written notice as to the location at which the utility keeps the various classes of records required by these rules.

d. The utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be maintained and made available to the commission upon request.

e. A copy of each type of customer bill form in current use shall be filed with the commission.

f. A copy of the adjustment calculation shall be provided to the commission prior to each billing cycle on the forms adopted by the commission.

g. Residential customer statistics. Each rate-regulated electric utility shall file with the commission on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

(1) Number of accounts;
(2) Number of accounts certified as eligible for energy assistance since the preceding October 1;
(3) Number of accounts past due;
(4) Number of accounts eligible for energy assistance and past due;
(5) Total revenue owed on accounts past due;
(6) Total revenue owed on accounts eligible for energy assistance and past due;
(7) Number of disconnection notices issued;
(8) Number of disconnection notices issued on accounts eligible for energy assistance;
(9) Number of disconnections for nonpayment;
(10) Number of reconnections;
(11) Number of accounts determined uncollectible; and
(12) Number of accounts eligible for energy assistance and determined uncollectible.

h. List of persons authorized to receive commission inquiries.

(1) Each utility shall file with the commission in the annual report required in the "general information" rule in 199—Chapter 23 a list of names, titles, addresses, and telephone numbers of

persons authorized to receive, act upon, and respond to communications from the commission in connection with:

1. General management duties;
2. Customer relations (complaints);
3. Engineering operations;
4. Meter tests and repairs;
5. Franchises for electric lines;
6. Certificates for electric generating plants; and
7. Outages and interruptions 24 hours a day.

(2) The contact information required by this paragraph shall be kept current as changes or corrections are made.

This rule is intended to implement Iowa Code section 476.2.

199—20.3(476) General service requirements.

20.3(1) *Disposition of electricity.* The utility shall own the meter and associated instrument transformers, own or control the wiring between the instrument transformers and the meter, and place a visible seal on all meters in customer use in a manner that the seal must be broken to gain entry.

a. For purposes of this subrule, the following definitions shall apply:

"Master meter" means a single meter used in determining the amount of electricity provided to a multioccupancy building or multiple buildings.

"Multioccupancy building" means a building that contains two or more units for occupancy or premises.

b. All electricity sold by a utility shall be on the basis of meter measurement except:

(1) Where the consumption of electricity may be readily computed without metering; or

(2) For temporary service installations not otherwise metered.

c. The amount of all electricity delivered to multioccupancy buildings, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966;

(4) Where individual metering is impractical. "Impractical" means:

1. Conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; or

2. The cost of providing individual metering exceeds the long-term benefits of individual metering; or

(5) Where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

1. A new multioccupancy building qualifies for master metering under this subparagraph if the predicted annual energy use would result in at least a 30 percent energy savings compared to the predicted annual energy use of a new building meeting the requirements of the State of Iowa Energy Code and operating with equipment, fixtures, and appliances meeting federal energy standards for manufactured devices for a new building.

2. An existing multioccupancy building qualifies for master metering under this subparagraph when the predicted annual energy use would result in at least a 20 percent energy savings compared to the building's current annual energy usage levels.

3. Credits for on-site renewable energy generation shall not be taken into account when determining the predicted energy savings.

4. A report from a qualified, independent third party stating that the proposed building or renovation will meet the energy savings requirements of this subparagraph shall establish a rebuttable

presumption of eligibility for master metering. "Qualified, independent third party" means a licensed architect or engineer, a certified residential energy services network home energy rating system rater, or any other professional deemed qualified by the commission.

If a multioccupancy building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric bill charged by the utility for the same period.

d. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy buildings within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 20.3(1)*"c"* have been met.

e. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the commission.

f. All electricity consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering, or where metering is impractical.

20.3(2) *Meter reading records.* The meter reading records shall show:

a. Customer's name, address, and rate schedule or identification of rate schedule.

b. Identification of the meter or meters either by permanently marked utility number or by manufacturer's name, type number and serial number.

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant.

20.3(3) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather-resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter. A utility may comply with the requirements of this subrule by making the required information available via the Internet or other equivalent means.

Where a delayed processing means is used, the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard, the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

20.3(4) *Meter reading and billing interval.* Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be provided weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the commission. If the commission denies a waiver, or if a waiver is not sought with respect to a high-demand customer after the initial month, that customer's meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter reading period. When the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bills shall be prorated on a daily basis.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be provided.

If an actual meter reading cannot be obtained, the utility may provide an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be provided.

20.3(5) *Demand meter registration.* When a demand meter is used for billing, the meter installation should be designed so that the highest expected annual demand reading to be used for billing will appear in the upper half of the meter's range.

20.3(6) *Service areas.* Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing during regular business hours at the commission's offices and on the commission's website.

20.3(7) *Modification of service area and answers.*

a. An exclusive service area is subject to modification through a contested case proceeding that may be commenced by filing a petition for modification of service area with the commission. The commission may commence a service area modification proceeding on its own motion. In determining whether the modification is in the public interest, the commission will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

b. An electric utility may file a petition for modification of service area containing (1) a legal description of the service area desired, (2) a designation of the utilities involved in each boundary section, (3) a justification for the proposed service area modification, and (4) in addition to the PDF (Portable Document Format) required in the "paper copies required" subrule of 199—Chapter 14, an electronic file of the proposed service area boundaries, in a format designated by the commission, as described on the EFS homepage under EFS Filing Standards. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas that complies with paragraph 20.3(9)*"a"* shall be attached to the petition as an exhibit.

c. Electric utilities may agree to service area modifications by contract pursuant to Iowa Code section 476.25(2).

20.3(8) *Certificate of authority.* Any electric utility or municipal corporation requesting a service territory modification pursuant to subrule 20.3(7) that would result in service to a customer by a utility other than the utility currently serving the customer must also petition the commission for a certificate of authority under Iowa Code section 476.23. The electric utility or municipal corporation shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

20.3(9) *Maps.*

a. Each utility shall maintain a current map or set of maps, including KMZ or other similar format, showing the physical location of electric lines, stations, and electric transmission facilities for its service areas, which include the exact location of the following:

(1) Generating stations with capacity designation.

(2) Purchased power supply points with maximum contracted capacity designation.

(3) Purchased power metering points if located at other than power delivery points.

(4) Transmission lines with size and type of conductor designation and operating voltage designation.

(5) Transmission-to-transmission voltage transformation substations with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations with transformer voltage and capacity designation.

(7) Distribution lines with size and type of conductor designation, phase designation, and voltage designation.

(8) All points at which transmission, distribution, or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes that cover more than 50 acres and all rivers.

(12) Any additional information required by the commission.

b. All maps, except those deemed confidential by the commission, shall be available for examination at the utility's designated offices during the utility's regular office hours or on the utility's website. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

20.3(10) *Prepayment meters.* Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under tariffs approved by the commission.

20.3(11) *Plant additions, electrical line extensions and service lines.*

a. Definitions. The following definitions shall apply to the terms used in this subrule:

"Advance for construction" means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the extensive plant addition or electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining tax liability.

"Agreed-upon attachment period" means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Electrical line extensions" means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for service lines as defined in this subrule.

"Equivalent overhead transformer cost" is that transformer capitalized cost, or fraction thereof, that would be required for similarly situated customers served by a pole-mounted or platform-mounted transformer(s). For each overhead service, it is the capitalized cost of the transformer(s) divided by the number of customers served by that transformer(s). For each underground service, it is the capitalized cost of an overhead transformer(s) with the same voltage and volt-ampere rating divided by the number of customers served by that transformer(s).

"Estimated annual revenues" is calculated based upon the following factors, including but not limited to the size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated base revenues" is calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the commission and energy efficiency charges from the estimated annual revenues.

"Estimated construction costs" is calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except equivalent overhead

transformer cost; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

"Plant addition" means any additional plant required to be constructed to provide service to a customer other than an electrical line extension or service line.

"Point of attachment" is that point of first physical attachment of the utilities' service drop (overhead) or service lateral (underground) conductors to the customer's service entrance conductors. For overhead services, it shall be the point of tap or splice to the service entrance conductors. For underground services, it shall be the point of tap or splice to the service entrance conductors in a terminal box or meter or other enclosure with adequate space inside or outside the building wall. If there is no terminal box, meter, or other enclosure with adequate space, it shall be the point of entrance into the building.

"Service line" means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

"Utility" means a rate-regulated utility.

b. Plant additions. The utility shall provide all electric plant at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer that requires an advance for construction by the customer to make plant additions shall be available for commission inspection.

c. Electrical line extensions. Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The utility may use a feasibility model to determine whether an advance for construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for commission inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract

with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for commission inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer is required to make an advance for construction, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated construction cost to provide the electrical line extension, the entire amount of the advance for construction provided will be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded will equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the electrical line extension.

3. In no event will the total amount to be refunded exceed the amount of the advance for construction. Any amounts subject to refund will be paid by the utility without interest. At the expiration of the above-described ten-year period, the advance for construction record will be closed and the remaining balance will be credited to the respective plant account.

(6) The utility shall keep a record of each work order under which the electrical line extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct either an overhead or underground service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(2) Where the length of the overhead service line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service line on private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

$$\text{(Estimated Construction Costs)} \times \frac{\text{(Total Length in Excess of 50 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) Where the cost of the underground service line exceeds the estimated cost of constructing an equivalent overhead service line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service line and the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers or members.

(5) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

e. Extensions not required. Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule unless the electrical line extension or service line shall be of a permanent nature. When the utility provides a temporary service to a customer, the utility may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized.

f. Different payment arrangement. This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

This rule is intended to implement Iowa Code section 476.8.

199—20.4(476) Customer relations.

20.4(1) *Customer information.* Each utility shall:

a. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, together with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving prospective customers in its service area.

b. Assist the customer or prospective customer in selecting the most economical rate schedule available for the customer's proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the commission ("compliance filings and tariffs" rule of 199—Chapter 26).

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the commission, are available for public inspection. The utility shall provide access to its rate schedules and rules for service on its website, and the notice shall include the website address.

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office or on the utility's website. If the utility provides access to its tariff and rate schedules on its website, the bill form shall include the website address.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of electricity for each billing during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

20.4(2) *Customer contact employee qualifications.* Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

a. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling

515.725.7300, or toll-free 877.565.4450, or by writing to 1375 E. Court Avenue, Des Moines, IA 50319, or by email to customer@iuc.iowa.gov."

b. The bill insert or notice on the bill shall be provided monthly.

20.4(3) *Customer deposits.*

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place that has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place that has not previously received service, or for an industrial customer, shall be the customer's projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

20.4(4) *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. Rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

20.4(5) *Customer deposit records.* Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

20.4(6) *Customer's receipt for a deposit.* Each utility shall issue a receipt of deposit to each customer from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is lost.

20.4(7) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment, which may be 11 timely payments and one automatic forgiveness of late payment. For refund purposes the account shall be reviewed for prompt payment after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the exemption provided by paragraph 20.4(3)*"b,"* including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

20.4(8) *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at

which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

20.4(9) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

a. The reading of the meter at the beginning and at the end of the period for which the bill is provided.

b. The dates on which the meter was read, at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule, with the identification of the applicable rate classification.

e. The account balance brought forward and amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment, which shall be clearly shown and shall be not less than 20 days after the bill is provided.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

j. Customer billing information alternate. A utility serving less than 5,000 electric customers may provide the information in this subrule on bill form or otherwise. If the utility elects not to provide this information, it shall advise the customer, on bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

20.4(10) *Payment agreements.*

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time, the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:

1. For customers who received a disconnection notice or who have been disconnected less than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 12 even monthly payments. For customers who have been disconnected more than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least six even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties.

2. The agreement shall also include a provision for payment of the current account.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as stated in the written document. The document stating the terms and conditions of the agreement shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

12. A customer shall not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement.

(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when handed to the customer or when delivered to the last-known address of the customer.

A customer may ask the commission for assistance in working out a reasonable payment agreement. The request for assistance must be made to the commission within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

20.4(11) *Bill payment terms.* The bill shall be considered provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered provided when delivered to the last-known address of the customer. There shall not be less than 20 days between the providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(4) may not be considered delinquent less than five days from the date the bill is provided. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month shall be changeable for cause such as, but not limited to, 15 days from the approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

e. Budget billing plan. Utilities shall offer a budget billing plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A budget billing plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The budget billing plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service. The plan may be estimated if there is insufficient usage history to create a budget billing plan based on actual use.

(2) Allow for entry into the budget billing plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new budget billing plan to a customer for six months after the customer has terminated from a budget billing plan.

(4) Use a computation method that produces a reasonable monthly budget billing amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements of this subrule. The computation method used by the utility shall be described in the utility's tariff and shall be subject to commission approval. The utility shall give notice to customers when it changes the type of computation method in the budget billing plan.

The amount to be paid at each billing interval by a customer on a budget billing plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The budget billing amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the budget billing amount is recomputed, the budget billing plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly budget billing amount. Except when a utility has a budget billing plan that recomputes the budget billing amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' budget billing amounts due or of obtaining a refund of any credit in excess of $25.

Except when a utility has a budget billing plan that recomputes the budget billing amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the budget billing amount. If the account balance is a credit, the budget billing plan may be terminated by the utility after 30 days of delinquency.

20.4(12) *Customer records.* The utility shall retain records as may be necessary to effectuate compliance with subrules 20.4(13) and 20.6(6), but not less than five years. Records for customer shall show where applicable:

a. kWh meter reading.
b. kWh consumption.
c. kW meter reading.
d. kW measured demand.
e. kW billing demand.
f. Total amount of bill.

20.4(13) *Adjustment of bills.*

a. Meter error. Whenever a meter creeps or whenever a metering installation is found upon any test to have an average error of more than 2.0 percent for watthour metering, or a demand metering error of more than 1.5 percent in addition to the errors allowed under accuracy of demand metering, an adjustment of bills for service for the period of inaccuracy shall be made in the case of overregistration and may be made in the case of underregistration. The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watthour metering installations the average accuracy shall be the arithmetic average of the percent registration at 10 percent of rated test current and at 100 percent of rated test current giving the 100 percent of rated test current registration a weight of four and the 10 percent of rated test current registration a weight of one.

b. Determination of adjustment. Recalculation of bills shall be on the basis of actual monthly consumption, except that if service has been measured by self-contained single-phase meters or three-wire network meters and involves no billing other than for kWh, the recalculation of bills may be based on the average monthly consumption determined from the most recent 36 months' consumption data.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed. The periods of error shall be used as defined in subparagraphs 20.4(13)*"b"*(1) and 20.4(13)*"b"*(2).

(1) Overregistration. If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error has existed for the shortest time period calculated as one-half the time since the meter was installed or one-half the time elapsed since the last meter test unless otherwise ordered by the commission.

The overregistration due to creep shall be calculated by timing the rate of creeping and assuming that the creeping affected the registration of the meter for 25 percent of the time since the more recent of either metering installation or last previous test.

(2) Underregistration. If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the commission.

The underregistration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration for 25 percent of the time since the more recent of either

metering installation or last previous test, except that billing adjustment shall be limited to the preceding six months.

c. Refunds. If the recalculated bills indicate that $5 or more is due an existing customer or $10 or more is due a person no longer a customer of the utility, the tariff shall provide refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation found to be in error. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

d. Back billing. A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, $5 for an existing customer or $10 for a former customer. All recalculations resulting in an amount due equal to or greater than the tariff specified minimum shall result in issuance of a back bill.

Back billings shall be provided no later than six months following the date of the metering installation test.

e. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the commission.

f. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the commission. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error, unless otherwise ordered by the commission.

g. Credits and explanations. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

20.4(14) *Refusal or disconnection of service.* A utility shall refuse service or disconnect service to a customer, as defined in subrule 20.1(3), in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection, except as specified in paragraph 20.4(14)*"b."* The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered provided when delivered to the last-known address of the customer. The date for disconnection of service shall be not less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(4) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

(1) In the event of a condition on the customer's premises determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner that adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

(1) For violation of or noncompliance with the utility's rules on file with the commission.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way that are specified to be furnished, in the utility's rules filed with the commission, as conditions of obtaining service, for the withdrawal of that same equipment, for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the commission.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(15) and 20.4(16), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the commission. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 that does not use the standard form set forth below for customers billed monthly shall submit to the commission electronically its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "electric" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

a. Pay the bill in full;

b. Enter into a reasonable payment plan with the utility (see #2 below);

c. Apply for and become eligible for low-income energy assistance (see #3 below);

d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, you are to be offered a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

Applications are taken at your local community action agency. If you are unsure where to apply, call 211 or 800.244.7431, or visit hhs.iowa.gov/programs/programs-and-services/liheap. To prevent disconnection, contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if full payment or payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for up to 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Commission for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1.

However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

7. How will I be told the utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe.

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on that may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Commission toll-free at 877.565.4450. You may also write the Iowa Utilities Commission at 1375 E. Court Ave., Des Moines, IA 50319, or email at customer@iuc.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 800.532.1275.

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(21), the following paragraph shall be appended to the end of the standard form for the summary of rights and responsibilities, as set forth in subparagraph 20.4(14)*"d"*(3):

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(5) When disconnecting service to a residence, the utility made a diligent attempt to contact, by telephone or in person, the customer to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the utility shall make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected. The utility shall make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended if requested of the utility by the commission in the event the customer files a written complaint with the commission in compliance with 199—Chapter 6.

(7) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities

permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances that indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(14)*"f."*

(10) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program, as well as members of the household named in the application. A utility may develop an incentive program to delay disconnection on April 1 for customers who make payments throughout the November 1 through April 1 period. All such incentive programs shall be set forth in tariffs approved by the commission.

(11) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption that appears to the customer to be abnormally high, may request the utility to assist in identifying the factors contributing to this usage pattern and to suggest

remedial measures. The utility shall assist by discussing patterns of electric usage that may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance that may be available to the customer.

f. A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

20.4(15) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay the back bill provided in accordance with paragraph 20.4(13)*"d."*

f. Failure to pay a bill provided in accordance with paragraph 20.4(13)*"f."*

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service in the customer's name.

h. Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

i. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of:

(1) The last date of service for the account giving rise to the delinquency,

(2) Physical disconnection of service for the account giving rise to the delinquency, or

(3) The last voluntary payment or voluntary written promise of payment made by the customer, if made before the ten-year period described in this paragraph has otherwise lapsed.

j. Delinquency in payment for service that arose on or before September 4, 2010, pursuant to an oral contract, except in cases of fraud or deception that prevented the utility from timely addressing such delinquencies with the customer.

20.4(16) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

20.4(17) *Estimated demand.* Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operation and use the measured demand for billing.

20.4(18) *Servicing utilization control equipment.* Each utility shall service and maintain any equipment it uses on a customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches, or other devices that control the customer's service in accordance with the provisions in the utility's rate schedules.

20.4(19) *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for commission resolution of the issues.

20.4(20) *Change in type of service.* If a change in the type of service or a change in voltage to a customer's substation is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the commission in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

a. Loss of value in electrical power utilization equipment,

b. Cost of changes in wiring, and

c. Cost of removing old and installing new utilization equipment.

20.4(21) *Limitation of service.* The utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff and contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the commission's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this subrule, "electric heating" means heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(14)*"f."*

This rule is intended to implement Iowa Code sections 476.6, 476.8, 476.20, and 476.54.

199—20.5(476) Engineering practice.

20.5(1) *Requirement for good engineering practice.* The electric plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the electric industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

20.5(2) *Standards incorporated by reference.* The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the commission.

a. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

b. National Electrical Code, ANSI/NFPA 70-2023, as published September 14, 2022.

c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2016, as approved August 21, 2017; and C57.13.3-2016, as published June 29, 2016.

d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2020, as published September 3, 2020.

e. Recommended Practice for Grounding of Industrial and Commercial Power Systems, IEEE 3003.1-2019, as published August 9, 2019.

f. IEEE Standard 1159-2019, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard, as published August 13, 2019.

g. IEEE Standard 519-2022, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems, as published August 5, 2022.

h. At railroad crossings, the "engineering standards for electric and communications lines" subrule in 199—Chapter 42.

20.5(3) *Adequacy of supply and reliability of service.* The generating capacity of the utility's plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

In appraising adequacy of supply the commission will segregate electric utilities into two classes viz., those having high capacity transmission interconnections with other electrical utilities and those that lack such interconnection and are therefore completely dependent upon the firm generating capacity of the utility's own generating facilities.

a. In the case of utilities having interconnecting ties with other utilities, the commission will, upon appraising adequacy of supply, take appropriate notice of the utility's recent past record, as of the date of appraisal, of any widespread service interruptions and any capacity shortages along with the consideration of the supply regularly available from other sources, the normal demands, and the required reserve for emergencies.

b. In the case of noninterconnected utilities, the commission will give attention to the maximum total coincident customer demand that could be satisfied without the use of the single element of plant equipment, the disability of which would produce the greatest reduction in total net plant productive capacity and also give attention to the normal demands for service and to the reasonable reserve for emergencies.

This rule is intended to implement Iowa Code sections 476.8 and 478.18.

199—20.6(476) Metering.

20.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement, or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The publications listed in subrule 20.6(3) are representative of accepted good practice. Each utility shall maintain inspecting and testing records for each meter and associated device until three years after its retirement.

20.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before they are placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments, or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan but shall include meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. The limits of meter accuracy considered acceptable by the utility.

f. The nature of meter and meter test records that will be maintained by the utility.

20.6(3) *Accepted good practice.* The American National Standard Code for Electricity Metering, ANSI C12.1-2022, as approved June 9, 2022, is considered to be representative of accepted good practice in matters of metering and meter testing.

20.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

20.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing for that customer but need not test more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test, and a record of each test shall be kept and made available upon request. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

20.6(6) *Referee tests.* Upon written request by a customer or utility, the commission will conduct a referee test of a meter but need not test more frequently than once in 18 months. The customer request shall be accompanied by a $30 deposit made payable to the utility.

Within five days of receipt of the written request and payment, the commission shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time, and place of the test with the commission and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in subrule 20.4(13). The commission shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

20.6(7) *Condition of meter.* No meter that is known to be mechanically or electrically defective, or to have incorrect constants, or that has not been tested and adjusted if necessary in accordance with these rules shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the electricity requirements of the customer.

20.6(8) *Comprehensive meter upgrade programs.*

a. A utility may forgo the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) if:

(1) The meters are removed or scheduled to be removed as part of a comprehensive meter upgrade program over a specified period not to exceed three years;

(2) The meters being removed have not previously been shown to be inaccurate or otherwise faulty;

(3) The utility either retains the removed meters for a period of one year from the removal date to allow customers the opportunity to challenge a meter's accuracy or tests a representative statistical sample based upon an industry standard such as ANSI C12.1-2022 of each type of meter being

removed as part of the program and maintains the removed meters for a period of at least six months; and

(4) The utility tests any meter upon request of a customer based upon the customer's experience comparing the replaced and replacement meters.

b. Prior to forgoing its testing procedures under this subrule, a utility shall notify the commission that the utility is engaging in a comprehensive meter upgrade program. The notice shall state the option the utility is electing to pursue under subparagraph 20.6(8)*"a"*(3), the specified period of the program, and the expected number of meters to be upgraded. A utility electing to test a statistical sample of removed meters under subparagraph 20.6(8)*"a"*(3) shall also state the industry standard it will use to determine the sample size and provide the full text of the standard to the commission upon request.

c. A utility shall continue to follow the meter testing procedures for meters removed for any reason unrelated to the comprehensive meter upgrade program.

d. A utility shall resume the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) upon completion of the comprehensive meter upgrade program or the end of the specified period, whichever occurs first.

199—20.7(476) Standards of quality of service.

20.7(1) Standard frequency. The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits that will permit the satisfactory operation of customer's clocks connected to the system.

20.7(2) Voltage limits retail. Each utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at paragraph 20.5(2)*"d."*

20.7(3) Voltage balance. Where three-phase service is provided, the utility shall exercise reasonable care to ensure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

20.7(4) Voltage limits, service for resale. The nominal voltage shall be as mutually agreed upon by the parties concerned. The allowable variation shall not exceed 7.5 percent above or below the agreed-upon nominal voltage without the express approval of the commission.

20.7(5) Exceptions to voltage requirements. Voltage outside the limits specified will not be considered a violation when the variations:

a. Arise from the action of the elements.

b. Are infrequent fluctuations not exceeding five minutes in duration.

c. Arise from service interruptions.

d. Arise from temporary separation of parts of the system from the main system.

e. Are from causes beyond the control of the utility.

f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

20.7(6) Voltage surveys and records. Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

20.7(7) Each utility shall make a sufficient number of voltage measurements in order to determine if voltages comply with subrules 20.7(2), 20.7(3), and 20.7(4). All records obtained under this subrule shall be retained by the utility for at least two years and shall be available for inspection by the commission's representatives. Notations on each chart shall indicate the following:

a. The location where the voltage was taken.

b. The time and date of the test.

c. The results of the comparison with a working standard indicating voltmeter.

20.7(8) Equipment for voltage measurements.

a. Secondary standard indicating voltmeter. Each utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. Working standard indicating voltmeters. Each utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. Recording voltmeters. Each utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

20.7(9) Extreme care must be exercised in the handling of standards and instruments to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

20.7(10) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

20.7(11) Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at paragraph 20.5(2)*"f."*

20.7(12) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at paragraph 20.5(2)*"g."*

This rule is intended to implement Iowa Code sections 476.2 and 476.8.

199—20.8(476) Safety.

20.8(1) *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations. A utility shall include in its safety program procedures for notifying the commission and the public of an incident involving a component of a wind turbine, solar facility, storage facility, or any other generating facility where the incident has resulted in damage to adjacent property or members of the public.

20.8(2) *Accident investigation and prevention.* The utility shall give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

20.8(3) *Reportable accidents.* Each utility shall maintain a summary of all reportable accidents, as defined in the "accident reports" rule of 199—Chapter 25, arising from its operations.

20.8(4) *Grounding of secondary distribution system.* Unless otherwise specified by the commission, each utility shall comply with, and encourage its customers to comply with, the applicable provisions of the acceptable standards listed in subrule 20.5(2) for the grounding of secondary circuits and equipment.

Ground connections should be tested for resistance at the time of installation. The utility shall keep a record of all ground resistance measurements.

The utility shall establish a program of inspection so that all artificial grounds installed by it shall be inspected within reasonable periods of time.

199—20.9(476) Electric energy automatic adjustment. The electric energy cost adjustment of the unit charge shall be an energy adjustment clause.

20.9(1) *Applicability.* A utility's electric energy adjustment shall recover from consumers only those costs that:

a. Are incurred in supplying energy;

b. Are beyond direct control of management;

c. Are subject to sudden important change in level;

d. Are an important factor in determining the total cost to serve; and

e. Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) *Energy adjustment clause.* Prior to any period in which a utility proposes to change the adjustment amount for each energy unit delivered to the customer, the utility shall determine and file for commission approval the adjustment amount to be charged for each energy unit delivered under rates set by the commission. The energy adjustment clause factors shall be printed on the customer's bill. The filing shall include all invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. Spreadsheets, workbooks, and databases included in filings shall include all cell formulae and cell references. Utilities that participate in a wholesale energy market and use a forecasted energy adjustment clause shall provide information about key inputs and assumptions and explain the differences between the forecast and actual fuel costs. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, emission allowances, and other costs.

a. The utility shall keep and maintain journal entries to reflect a breakdown of the following for each type of fuel: actual cost of fuel, transportation costs, and other costs. Items identified as other costs should be described, and their inclusion as fuel costs shall be approved by the commission. The commission may direct that journal entries be filed. The utility shall also file detailed supporting data:

(1) To show the actual amount of sales of energy by month for which an adjustment was utilized, and

(2) To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

b. The energy adjustment shall provide for change of the price per kWh delivered under rates set by the commission based upon the formulas provided in the utility's tariff. The energy adjustment factor shall be rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. The tariff shall define the components of the formula(s) and shall include reference to the specific accounts of the Uniform System of Accounts for each component.

(1) For each period as specified in the tariff, the calculation shall include but not be limited to:

1. The estimated energy cost and revenues;

2. The estimated electric energy to be delivered and entered in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which the energy adjustment charge will be used; and

3. The energy cost adjustment account balance.

(2) The base formula for the energy adjustment factor shall be:

Energy adjustment factor = (energy cost adjustment account balance + estimated energy costs and revenues) / estimated energy delivered

c. The estimated energy cost and revenues shall be the estimated cost and revenues associated with:

(1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel that has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects, the energy cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of paragraph 20.9(2)*"c."*

(5) The energy costs paid for energy purchased under arrangements or contracts, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from alternative energy production facilities under the commission's "additional rate-regulated utility obligations regarding AEP facilities" rule in 199—Chapter 15.

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under the "alternate energy purchase programs" rule of 199—Chapter 15.

(10) Federal production tax credits unless the commission approves different ratemaking treatment.

(11) Other costs and revenues as specified in the utility's tariff and approved by the commission. For all other costs and revenues, the utility shall provide the type of cost, the dollar amount, and reference to the commission order approving the cost to be included in the energy adjustment clause.

d. The energy cost adjustment account balance shall be the cumulative balance of any excess or deficiency that arises out of the difference between commission recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the commission. The calculation for the energy cost adjustment account balances shall include but not be limited to:

(1) The actual energy expense for the prior period and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts;

(2) The actual electric energy delivered for the prior period and recorded in accounts 440, 442, and 444-7, excluding energy from distinct interchange deliveries entered into account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts; and

(3) The beginning energy cost adjustment account balance (overrecovered or underrecovered amount) for the current period.

e. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace the energy normally received from nuclear sources. A surcharge would be added to each kWh from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

f. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the commission monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;
(3) The number and unit price of allowances sold during the month;
(4) The weighted average unit cost of allowances remaining in inventory;
(5) The dollar amount of any gain from an allowance sale occurring during the month;
(6) The dollar amount of any loss from an allowance sale occurring during the month; and
(7) Documentation of any gain or loss from an allowance sale occurring during the month.

g. The energy adjustment clause factor may include other automatic adjustment mechanisms as approved by the commission.

20.9(3) *Utilities not making monthly changes to the adjustment amount.* Utilities that do not file monthly adjustments shall:

a. File the information pursuant to subrule 20.9(2) on a quarterly basis.

b. File an annual reconciliation of the EAC factor and an update to the EAC factor. The date of the annual reconciliation and update shall be specified in the utility's tariff. The reconciliation shall follow the requirements of subrule 20.9(2).

c. Include a semiannual adjustment if the absolute value of the cumulative over recovery or under recovery amount is greater than 20 percent of the forecasted net recoverable energy costs for the EAC year. The semiannual adjustment filing shall be filed six months after the annual reconciliation and update filing and shall follow the requirements of subrule 20.9(2) but will be limited to the remaining months of the year. The semiannual factor updates may utilize updated forecasts for the costs and sales for the remainder of the year.

20.9(4) *Review of energy adjustment clause.* At least biennially, but no more than annually, the commission shall require each utility that owns generation and utilizes an energy adjustment clause to provide fuel, freight, and transportation invoices from two months of the previous calendar year. The utility shall include an explanation of and demonstrate how these invoices correspond to the energy adjustment clause calculations. The explanation shall include inventory accounting information and average cost of fuel and transportation included in the energy adjustment clause calculations. The commission will notify each utility by May 1 as to which two months' invoices will be required. These invoices shall be filed with the commission no later than the subsequent November 1.

20.9(5) *Annual reports.* With the first filing of the utility's EAC year, each utility participating in a wholesale market shall file a report explaining how participation results in reduced customer rates or reduces increases in customer rates, identifying current and evolving market issues that are expected to impact rates, and describing the utility's efforts to influence market issues for the benefit of customers.

199—20.10(476) Ratemaking standards.

20.10(1) *Coverage.* Standards for ratemaking shall apply to all rate-regulated utilities in the state of Iowa. The commission may, by rule or by order in specific cases, exempt a utility or class of utilities from any or all ratemaking standards. The standards are recommended to all service-regulated utilities in this jurisdiction.

20.10(2) *Cost of service.* Rates charged by an electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reasonably reflect the costs of providing electric service to the class. The methods used to determine class costs of service shall to the maximum extent practical permit identification of differences in cost-incurrence, for each class of electric consumers, attributable to daily and seasonal time of use of service, and permit identification of differences in cost-incurrence attributable to differences in demand, energy, and customer components of cost.

The design of rates should reasonably approximate a pricing methodology for any individual utility that would reflect the price system that would exist in a competitive market environment. For purposes of determining revenue requirements among customer classes, embedded costs shall be preferred. For purposes of determining rate designs within customer classes, long-run marginal cost approaches are preferred although embedded cost approaches may be considered reasonable.

Nothing in this rule shall authorize or require the recovery by an electric utility of revenues in excess of, or less than, the amount of revenues otherwise determined to be lawful by the commission.

Guidelines for use in evaluating the acceptability of methods of class cost of service estimation include, but are not limited to, the following:

a. All usage of customer, demand, and energy components of service shall be considered new usage.

b. Customer classes shall be established on the primary basis of reasonably similar usage patterns within classes, even if this requires disaggregation or recombination of traditional customer classes.

c. Generating capacity estimates or allocations among and within classes shall recognize that utility systems are designed to serve both peak and off-peak demand and shall attribute costs based upon both peak period demand and the contribution of off-peak period demand in determining generation mix. Generating capacity estimates and allocations among and within classes shall be based on load data for each class as described in the "class load data" paragraph of 199—Chapter 35.

d. Transmission and distribution capacity estimates or allocations among and within classes shall be demand-related based upon system usage patterns and the load imposed by a class on the transmission or distribution capacity in question.

e. Customer cost component estimates or allocations shall include only costs of the distribution system from and including transformers, meters, and associated customer service expenses.

f. Methods of cost estimates or allocations among customer classes shall recognize the differences in voltage levels and other service characteristics and line losses among customer classes.

g. Methods of class cost of service determination that are consistent with zero customer, demand, or energy component costs or major categories of these, such as generation, transmission, or distribution, shall be considered unacceptable methods.

h. Long-run marginal cost methods of class cost of service determination shall clearly reflect changes in total costs to the utility with respect to changes in the outputs of customer, demand, or energy components of electric services.

i. The use of an inverse elasticity approach to adjust long-run marginal cost-based rates to the revenue requirement shall be unacceptable. Other approaches will be considered on a case-by-case basis.

20.10(3) *Declining block rates.* The energy-related cost component of a rate, or the amount attributable to the energy-related cost component of a rate, charged by an electric utility for providing electric service during any period to any class of electric consumers, shall not decrease as kWh consumption by such class increases during the period except to the extent that the utility demonstrates that the energy costs of providing electric service to such class decrease as consumption increases during the period.

20.10(4) *Time-of-day rates.* The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis that reflects the cost of providing electric service to that class of electric consumers at different times of the day unless such rates are not cost-effective with respect to the class. These rates are cost-effective with respect to a class if the long-run benefits of the rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of the rates. Cost-based time-of-day rates shall be offered on an optional basis to electric consumers who do not otherwise qualify for the rates if consumers agree to pay the additional metering costs and other costs associated with the use of the rates.

20.10(5) *Seasonal rates.* The rates charged by an electric utility for providing electric service to each class of electric consumers may be on a seasonal basis that reflects the costs of providing service to the class of consumers at different seasons of the year to the extent that costs vary seasonally for the utility, if the commission determines that seasonal rates are appropriate in an individual case.

20.10(6) *Interruptible rates.* Each electric utility shall offer an interruptible rate that reflects the cost of providing interruptible service to the class of which the consumer is a member and the eligibility requirements for that interruptible service.

199—20.11(476) Customer notification of peaks in electric energy demand.

20.11(1) Pursuant to Iowa Code section 476.17, each investor-owned utility shall have a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur. The plan shall be made available to the commission upon request.

20.11(2) The plan shall include, at a minimum, the following:

a. A description and explanation of the condition(s) that will prompt a peak alert.

b. A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

c. The text of the message or messages to be given in the general notice to customers. The message shall include the name of the utility providing the notice, an explanation that conditions exist that indicate a peak in electric demand is approaching, and an explanation of the significance of reductions in electricity use during a period of peak demand and the potential benefits of energy efficiency.

199—20.12 Reserved.

199—20.13(476) Periodic electric energy supply and cost review [476.6(12)]. Pursuant to Iowa Code section 476.6(12), the commission shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's practices related to procurement of and contracting for fuel used in generating electricity. When it determines to conduct a contested case proceeding, the commission shall notify a rate-regulated utility that it will be required to file an electric fuel procurement plan. The notification to the utility shall include a detailed list of what the commission will be examining as part of the review. The utility shall file its plan no later than 105 days after notification unless otherwise directed by the commission. A utility's procurement plan shall be organized to include information as follows:

20.13(1) *Index.* The plan shall include an index of all documents and information required to be filed in the plan, and the identification of the commission files in which the documents incorporated by reference are located.

20.13(2) *Purchase contracts and arrangements.* A utility's procurement plan shall include detailed summaries of the following types of contracts and agreements executed since the last procurement review:

a. All contracts and fuel supply arrangements for obtaining fuel for use by any unit in generation;

b. All contracts and arrangements for transporting fuel from point of production to the site where placed in inventory, including any unit generating electricity for the utility;

c. All contracts and arrangements for purchasing or selling allowances;

d. Purchased power contracts or arrangements, including sale-of-capacity contracts, involving over 25 MW of capacity;

e. Pool interchange agreements;

f. Multiutility transmission line interchange agreements; and

g. Interchange agreements between investor-owned utilities, generation and transmission cooperatives, or both, not required to be filed above, which were entered into or in effect since the last filing, and all such contracts or arrangements that will be entered into or exercised by the utility during the prospective 12-month period.

All procurement plans filed by a utility shall include all of the types of contracts and arrangements listed in paragraphs 20.13(2)*"a"* and *"b"* that will be entered into or exercised by the utility during

the prospective 12-month period. In addition, the utility shall file an updated list of contracts that are or will become subject to renegotiation, extension, or termination within five years. The utility shall also update any price adjustment affecting any of the filed contracts or arrangements.

20.13(3) *Other contract offers.* The procurement plan shall include a list and description of those types of contracts and arrangements listed in subrule 20.13(2) offered to the utility since the last filing into which the utility did not enter. In addition, the procurement plan shall include a list of those types of contracts and arrangements listed in subrule 20.13(2) that were offered to the utility for the prospective 12-month period and into which the utility did not enter.

20.13(4) *Studies or investigation reports.* The procurement plans shall include all studies or investigation reports that have been considered by the utility in deciding whether to enter into any of those types of contracts or arrangements listed in subrules 20.13(2) and 20.13(3) that will be exercised or entered into during the prospective 12-month period.

20.13(5) *Price hedge justification.* The procurement plan shall justify purchasing allowance futures contracts as a hedge against future price changes in the market rather than for speculation.

20.13(6) *Actual and projected costs.* The procurement plan shall include an accounting of the actual costs incurred in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with subrule 20.13(2) for the previous 12-month period.

The procurement plan also shall include an accounting of all costs projected to be incurred by the utility in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with subrule 20.13(2) in the prospective 12-month period.

If applicable, the reporting of transportation costs in the procurement plan shall include all known liabilities, including all unit train costs.

20.13(7) *Costs directly related to the purchase of fuel.* The utility shall provide a list and description of all other costs directly related to the purchase of fuels for use in generating electricity not required to be reported by subrule 20.13(6).

20.13(8) *Compliance plans.* Each utility shall file its emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

20.13(9) *Evidence submitted.* Each utility shall submit all factual evidence and written argument in support of its evaluation of the reasonableness and prudence of the utility's procurement practice decisions in the manner described in its procurement plan. The utility shall file data sufficient to forecast fuel consumption at each generating unit or power plant for the prospective 12-month period. The commission may require the submission of machine-readable data for selected computer codes or models.

20.13(10) *Additional information.* Each utility shall file additional information as ordered by the commission.

199—20.14(476) Flexible rates.

20.14(1) *Purpose.* This rule is intended to allow electric utility companies to offer, at their option, incentive or discount rates to their customers.

20.14(2) *General criteria.*

a. Electric utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

20.14(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount rate shall be equal to the energy costs and customer costs of serving the specific customer.

d. No discount shall be offered for a period longer than five years unless the commission determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

20.14(4) *Reporting requirements.* Each rate-regulated electric utility electing to offer flexible rates shall file annual reports with the commission within 30 days of the end of each 12 months. Reports shall include the following information:

a. For all discounts initiated in the last 12 months, section 1 of the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The end-use cost of alternate fuels or energy supplies available to the customer, if relevant;

(5) The energy and demand components by month of the amount of electricity sold to the customer in the preceding 12 months.

b. Section 2 of the report relates to overall program evaluation. Amount of electricity refers to both energy and demand components when the customer is billed for both elements. For all discounts currently being offered, section 2 of the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The amount of electricity sold in the last 12 months to each customer at discounted rates, by month;

(3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month;

(4) The dollar value of the discount in the last 12 months to each customer, by month; and

(5) The dollar value of sales to each customer for each of the previous 12 months.

c. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, section 3 of the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The amount of electricity sold in the last 12 months to each customer, by month;

(3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of sales to each customer for each of the past 12 months.

d. No monthly report is required if the utility had no customers receiving a discount during the relevant period and had no customers that were evaluated for the discount and rejected during the relevant period.

20.14(5) *Rate case treatment.* In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable

increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—20.15(476) Customer contribution fund.

20.15(1) *Applicability and purpose.* This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. Pursuant to Iowa Code section 476.66, each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

20.15(2) *Notification.* Each utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice that will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers or provided by electronic means to those customers who have consented to receiving electronic notices. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter, or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

a. A description of the availability of the fund;

b. A description of the purpose of the fund; and

c. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

20.15(3) *Methods of contribution.* The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledger. The pledge amount shall not be subject to delayed payment charges by the utility. Each utility may allow persons or organizations to contribute matching funds.

20.15(4) *Annual report.* On or before September 30 of each year, each utility shall file with the commission a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the commission, contain an accounting of the total revenues collected and all distributions of the fund, and describe all utility expenses directly related to the customer contribution fund.

199—20.16(476) Exterior flood lighting.

20.16(1) *Newly installed lighting.* All newly installed public utility-owned exterior flood lighting shall be solid-state lighting or lighting with equivalent or better energy efficiency.

20.16(2) *In-service lighting replacement schedule.* In-service lighting shall be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure for any other reason, such as vandalism or storm damage. A utility shall file with the commission as part of the utility's annual report required in 199—Chapter 23 a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency.

20.16(3) *Efficacy standards.* Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

a. For fixtures, the mean lumens-per-watt lamp rating is greater than 100;

b. The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or

c. The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a DOE Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or

any other testing agency that follows Illuminating Engineering Society of North America LM-79-19, as approved May 14, 2019, test procedures.

199—20.17(476) Ratemaking treatment of emission allowances.

20.17(1) *Applicability and purpose.* This rule applies to all rate-regulated utilities providing electric service in Iowa. Under the Act, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

20.17(2) *Definitions.* The following words and terms, when used in this rule, shall have the meaning indicated below:

"Auction allowances" are allowances acquired or sold through EPA's annual allowance auction.

"Boot" means something acquired or forfeited to equalize a trade.

"Direct sale allowances" are allowances purchased from the EPA in its annual direct sale.

"Fair market value" is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

"Historical cost" is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

"Original cost" is the historical cost of an asset to the person first devoting the asset to public service.

"Statutory allowances" are allowances allocated by the EPA at no cost to affected units under the Act either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

20.17(3) *Valuing allowances for ratemaking purposes.*

a. Statutory allowances. Valued at zero cost to electric utility.

b. Direct sale allowances. Valued at historical cost.

c. Auction allowances. Valued at historical cost.

d. Purchased allowances. Valued at historical cost.

20.17(4) *Valuing allowance inventory accounts.* Allowance inventory accounts shall be valued at the weighted average cost of all allowances eligible for use during that year.

20.17(5) *Valuing allowances acquired as part of a package.* Allowances acquired as part of a package with equipment, fuel, or electricity shall be valued at their fair market value at the time the allowances were acquired.

20.17(6) *Valuing allowances acquired through exchanges.*

a. Exchanges without boot. Electric utilities shall value allowances received in exchanges based on the recorded inventory value of the allowances relinquished.

b. Exchanges with boot. Electric utilities shall value allowances as the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly acquired allowances. In determining the historical cost of allowances received, a gain (or loss) shall be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share shall be based upon the ratio of the monetary consideration received (i.e., boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received). The historical cost of the allowances received shall be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

20.17(7) *Valuing allowances transferred among affiliates.*

a. Allowances transferred from a utility to a parent or unregulated subsidiary shall be transferred at the higher of historical cost or fair market value.

b. Allowances transferred from an unregulated subsidiary or parent to a utility shall be transferred at the lesser of original cost or fair market value.

c. Allowances transferred from a utility to an affiliated utility shall be transferred at fair market value.

20.17(8) *Expense recognition and recovery of allowance costs.*

a. Expense recognition. Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related emissions occur.

b. Expense recovery. The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 199—20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. Allowance inventory shortage. If a utility emits more emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the allowances shall be passed through the energy adjustment as specified in rule 199—20.9(476).

20.17(9) *Gains/losses from allowance transactions.* The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 199—20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

20.17(10) *Allowance futures or option contracts.*

a. Price hedging. Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. Speculation. Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

20.17(11) *Working capital reserve of allowances.* A working capital reserve of allowances shall be established in each utility's rate case proceeding based on the probability of forced outages, fuel quality variability, variability in load growth, nuclear exposure, the price and availability of allowances on the national market, and any other factors that the commission deems appropriate. The working capital reserve will earn at the utility's authorized rate of return.

20.17(12) *Allowances banked for future use.* Allowances banked for future use shall be considered plant held for future use in utility rate proceedings if a definitive plan and schedule for use of the allowances is deemed adequate by the commission.

20.17(13) *Prudence of allowance transactions.* The prudence of allowance transactions shall be determined by the commission in the periodic electric energy supply and cost review. The prudency review of allowance transactions and accompanying compliance plans shall be based on information available at the time the options or plans were developed. Costs recovered from ratepayers through the energy adjustment that are deemed imprudent by the commission shall be refunded with interest to ratepayers through the energy adjustment as specified in rule 199—20.9(476).

199—20.18(476,478) Service reliability requirements for electric utilities.

20.18(1) *Applicability.* This rule is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

20.18(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the commission's jurisdiction. This rule establishes reporting requirements to provide consumers, the commission, and electric utilities with methodology for monitoring reliability and ensuring quality of

electric service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

20.18(3) *General obligations.*

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and be capable of emergency repair work on a scale that its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. In appraising the reliability of the electric utility's transmission and distribution system, the commission will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

e. Each electric utility shall keep records of interruptions of service on its primary distribution system and make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

f. Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

20.18(4) *Definitions.* Terms and formulas when used in this rule are defined as follows:

"Customer" means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility that has a separately metered electrical service point for which a bill is provided. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

"Customer average interruption duration index" or *"CAIDI"* means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

"Distribution system" means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

"Electrical service point" means the point of connection between the electric utility's equipment and the customer's equipment.

"Electric utility" means investor-owned electric utilities and electric cooperative corporations and associations owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the commission's jurisdiction.

"GIS" means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

"Interrupting device" means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated. Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

"Interruption" means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer's private property;
5. Interruptions due to hazardous conditions located on the affected customer's private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security; or
8. Interruptions caused by the failure of a customer's equipment; the operation of a customer's equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

"Interruption duration" as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service, as long as the duration is not less than five minutes long.

"Interruption, momentary" means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

"Interruption, momentary event" means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

"Interruption, scheduled" means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

"Interruption, sustained" means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

"Loss of service" means the loss of electrical power, or a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of "interruption."

"Major event" will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area,
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area,
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or

4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

"Metropolitan area" means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

"Momentary average interruption frequency index" or *"MAIFI"* means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

"OMS" is a computerized outage management system.

"Operating area" means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

"Outage" means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

"Power quality" means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include but not be limited to disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

"Rural circuit" means a circuit not defined as an urban circuit.

"System average interruption duration index" or *"SAIDI"* means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

"System average interruption frequency index" or *"SAIFI"* means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

"Total number of customers served" means the total number of customers served on the last day of the reporting period.

"Urban circuit" means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

20.18(5) *Recordkeeping requirements.*

a. Each electric utility shall maintain a GIS and an OMS sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

(1) State jurisdiction;
(2) Operating area (if any);
(3) Substation;
(4) Circuit;
(5) Number of interruptions in reporting period; and

(6) Number of hours of interruptions in reporting period.

b. Records on interruptions shall be sufficient to determine the following:

(1) Starting date and time the utility became aware of the interruption;

(2) Duration of the interruption;

(3) Date and time service was restored;

(4) Number of customers affected;

(5) Description of the cause of the interruption;

(6) Operating areas affected;

(7) Circuit number(s) of the distribution circuit(s) affected;

(8) Service account number or other unique identifier of each customer affected;

(9) Address of each affected customer location;

(10) Weather conditions at time of interruption;

(11) System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer);

(12) Whether the interruption was planned or unplanned.

c. Each electric utility shall maintain as much information as feasible on momentary interruptions.

d. Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.

(1) The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.

(2) The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.

(3) The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.

(4) The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.

(5) Utilities may augment the code sets listed above to enhance tracking.

e. An electric utility shall retain for seven years the records required by paragraphs 20.18(5)*"a"* through *"d."*

f. Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.

20.18(6) *Notification of major events.* Notification of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 199—20.19(476,478).

20.18(7) *Annual reliability and service quality report.* Each electric utility shall submit to the commission on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. Description of service area. Urban and rural Iowa service territory customer count; Iowa operating area customer count, if applicable; and major communities served within each operating area.

b. System reliability performance.

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and be updated as needed in subsequent reports.

c. Reporting on customer outages.

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

d. Major event summary. For each major event that occurred in the reporting period, the following information shall be provided:

(1) A description of the area(s) impacted by each major event;

(2) The total number of customers interrupted by each major event;

(3) The total number of customer-minutes interrupted by each major event; and

(4) Updated damage cost estimates to the electric utility's facilities.

e. Information on transmission and distribution facilities.

(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.

(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

f. Plans and status report. A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

g. Capital expenditure information. Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Each electric utility shall report on an annual basis the total of:

1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its commission of directors or other appropriate authority. If any amounts

approved by the commission of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.

2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.

(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in subparagraph 20.18(7)*"g"*(1).

h. Maintenance. Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.

(2) Tree trimming.

1. The budget and expenditures described in subparagraph 20.18(7)*"h"*(1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.

2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the commission in a request for waiver.

3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in numbered paragraph 20.18(7)*"h"*(2)"1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the commission's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

i. The annual reliability report shall include the number of poles inspected, the number rejected, and the number replaced.

20.18(8) *Inquiries about electric service reliability.* A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

199—20.19(476,478) Notification of outages.

20.19(1) *Notification.* The notification requirements in this rule are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the commission when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. Loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

c. A major event as defined in subrule 20.18(4); or

d. Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1)*"a"* and *"b."*

20.19(2) *Information required.*

a. Notification shall be provided regarding outages that meet the requirements of subrule 20.19(1) by notifying the commission duty officer by email at dutyofficer@iuc.iowa.gov or, in appropriate circumstances, by telephone at 515.745.2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

(1) The general nature or cause of the outage;

(2) The area affected;

(3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage.

The notice should be supplemented as more complete or accurate information is available.

b. The utility shall provide to the commission updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances unless service is restored within one hour of the time initially estimated.

c. The utility shall notify the commission once service is fully restored to all customers after an outage meeting the requirements of subrule 20.19(1).

199—20.20(476) Electric vehicle charging service.

20.20(1) A commercial or public electric vehicle charging station is not a public utility under Iowa Code section 476.1 if the charging station receives all electric power from the electric utility in whose service area the charging station is located. If an electric vehicle charging station obtains electric power from a source other than the electric utility, the determination of whether the commercial or public electric vehicle charging station is a public utility shall be resolved by the commission.

20.20(2) A person, partnership, business association, or corporation, foreign or domestic, furnishing electricity to a commercial or public electric vehicle charging station shall comply with Iowa Code section 476.25 and, if applicable, with the terms and conditions of the public utility's tariffs or service rules.

20.20(3) A rate-regulated public utility shall not, through its filed tariff, prohibit electric vehicle charging or restrict the method of sale of electric vehicle charging at a commercial or public electric vehicle charging station.

20.20(4) Electric utilities and entities providing commercial or public electric vehicle charging service shall comply with all applicable statutes and regulations governing the provision of electric vehicle charging service, including but not limited to all taxing requirements, and shall, if necessary, file all appropriate tariffs.

199—20.21(476) Transmission cost adjustment (TCA).

20.21(1) *Transmission cost adjustment.* Pursuant to Iowa Code section 476.6(8)*"b,"* public utilities may automatically adjust rates and charges to recover transmission-related costs incurred by or charged to the public utility consistent with a tariff or agreement that is subject to the jurisdiction of the FERC, provided that a schedule showing the automatic adjustment of rates and charges is first filed with and approved by the commission. The public utilities shall also file accounting information and invoices for any expenses incurred for construction and maintenance, along with any other

documents filed with the respective regional transmission organization or the FERC, regarding these qualifying transmission-related costs. Transmission cost adjustments shall be computed and tracked separately for each customer classification or grouping previously approved by the commission and shall use the same unit of measure as the utility's tariffed rates. Changes in the customer classification and grouping on file are not automatic and require prior approval by the commission. If any eligible cost is recovered outside of the TCA, the cost shall not be recovered through the TCA until the cost is removed from its current recovery mechanism. If any eligible cost is recovered outside of the TCA, the cost shall not be recovered through the TCA until the cost is removed from base rates during a utility's rate case. The TCA factor shall be included as a separate line item on the customer's bill.

20.21(2) *TCA annual factor.* An annual TCA factor update shall be filed as a tariff (TF) docket at least 30 days prior to the beginning of the utility's TCA year. The TCA update shall include information describing which eligible TCA costs are being recovered through the TCA and, if not recovered through the TCA, where eligible costs are being recovered. The annual TCA factors for each customer classification or grouping shall be based upon forecasted transmission costs allocated to Iowa retail customers, forecasted Iowa sales or demand, and allocation factors approved by the commission. The forecasted allocation factors shall be based on a three-year average of the actual allocation factors for each of the three previous calendar years. For customers billed by kWh, the factors shall be developed on a kWh basis. For customers billed by kW, the factors shall be developed on a kW basis. In addition, the following is required to be included with this filing:

a. A listing of all transmission costs that are incurred by or charged to the public utility and are consistent with a tariff or agreement that is subject to the jurisdiction of the FERC, detailing where each transmission cost is currently being recovered (e.g., base rates, TCA).

b. A time series chart of each transmission cost eligible for inclusion in the TCA for the previous three calendar years.

20.21(3) *Annual reconciliation.* Within four months after the effective date of annual TCA factors, a utility shall file an annual reconciliation based upon actual costs and revenues attributed to Iowa customers for the prior calendar year. The annual reconciliation shall be filed in the same TF docket identified for the annual filing required in subrule 20.21(2). The reconciliation shall include updated allocators for each customer classification or grouping based on actual load data from the prior calendar year. The actual costs for the prior calendar year shall be allocated to each customer class based upon the updated allocation factors. The utility shall compare the actual transmission costs allocated to each customer class with the actual revenue billed through the TCA by customer class net of the prior year's reconciliation dollar amount for each customer class. Any resulting overcollection or undercollection for each class shall be divided by the forecasted sales or demand for each customer class for the remainder of the TCA period. The resulting adjustments shall be added to the effective TCA factors that were approved in the TCA annual factor filing under subrule 20.21(2). The adjusted TCA factor for customers billed by kWh shall be developed on a kWh basis, and for customers billed on a kW basis, the adjusted TCA factor shall be developed on a kW basis.

20.21(4) *Other adjustments to the TCA factor.* A utility may propose other adjustments to the TCA factor throughout the 12-month TCA period to assist with accurate recovery of forecasted costs and revenues, subject to commission approval. Any midyear adjustments shall be filed in the same TF docket as the annual filing. If a utility proposes an adjustment to the TCA factor, other than the reconciliation required in subrule 20.21(3), the utility shall provide an explanation for the proposed adjustment and provide information to support the proposed adjustment. For any customer billed by kWh, the proposed adjustment shall be developed on a kWh basis. For any customer billed on a kW basis, the proposed adjustment shall be developed on a kW basis.

20.21(5) *Quarterly informational filings.* By the end of the month following the end of each calendar quarter, the utility shall file a report containing, at minimum, the current cumulative overcollection or undercollection balance, support for the overcollection or undercollection calculation, the total transmission cost for the current calendar year by category, and the supporting

invoices and documentation for the most recent calendar quarter. The reports shall be filed in the same TF docket as the annual TCA filing.

20.21(6) *Semiannual transmission reports.* Each year at the beginning, and midpoint of a utility's TCA year, each utility shall file a report detailing the utility's transmission-related activities. These reports shall detail the utility's recent efforts to mitigate transmission costs and influence policy to the benefit of the utility and its ratepayers.

20.21(7) *Midcontinent Independent System Operator, Inc. (MISO) refunds.* Any utility utilizing a TCA mechanism that receives transmission-related refunds from MISO shall file a refund plan for commission approval, detailing how the utility will distribute the refund to customers. The refund plan must be filed once the amount and timing of the refund is known to the utility. The refund plan shall include an applicable interest rate for refund amounts held more than 30 days, the method of distributing the refund to customers, and the timing of distributing the refund to customers.

These rules are intended to implement Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18, and 546.7.

ARC 8104C

TREASURER OF STATE[781]

Notice of Intended Action

Proposing rulemaking related to Iowa educational savings plan trust and providing an opportunity for public comment

The Treasurer of State hereby proposes to amend Chapter 16, "Iowa Educational Savings Plan Trust," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 12D.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 12D as amended by 2024 Iowa Acts, House File 2667.

Purpose and Summary

This proposed rulemaking makes updates necessary to conform with changes in state and federal law related to the administration and use of 529 savings accounts. In addition to updating definitions and the use of terms, the rulemaking will update the name of Iowa's direct-sold 529 product.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Treasurer of State for a waiver of the discretionary provisions, if any, pursuant to 781—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Office of the Treasurer of State no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

Molly Widen
Office of the Treasurer of State
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Email: molly.widen@tos.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend rule 781—16.2(12D) as follows:

781—16.2(12D) Definitions. In addition to the terms defined in Iowa Code section 12D.1, the following terms apply to this chapter:

"ABLE account" means an account as defined in Section 529A of the Internal Revenue Code.

"Account" means an account established and maintained under the Iowa educational savings plan trust for a beneficiary.

"Account balance" means the fair market value of an account.

"Account balance limit" means the amount determined periodically by the program administrator as necessary to provide for the qualified higher education expenses of a beneficiary in accordance with Section 529. The account balance limit shall apply to the total of all accounts in the plans for the benefit of a beneficiary.

"Account owner" means the ~~participant or other owner of an account~~ same as "participant" as defined in Iowa Code section 12D.1.

"Adjusted maximum annual amount" means the amount that ~~a participant~~ an account owner may annually contribute to an account for a beneficiary and deduct from Iowa income taxes pursuant to Iowa Code chapter 422.

"Beneficiary" means the individual designated as the beneficiary of an account.

~~*"College savings Iowa"* means the name and logo registered under Iowa law to represent the direct-sold plan under the Iowa educational savings plan trust.~~

"Contractor" means any party retained by the program administrator to assist in the day-to-day operations of a plan, including record-keeping, investment advisory and administrative services. The program administrator may delegate any responsibilities with respect to day-to-day operations of a plan to one or more contractors.

"Contribution" means an amount contributed to an account in accordance with the Internal Revenue Code, these rules and the applicable program description.

"Eligible educational institution" means an eligible educational institution as defined in Section 529.

"~~Iowa advisor~~ IAdvisor 529 plan" means the name and logo registered to represent the advisor-sold plan under the Iowa educational savings plan trust.

"Internal Revenue Code" means the Internal Revenue Code as effective on July 1, 2024.

"ISave 529" means the name and logo registered under Iowa law to represent the direct-sold plan under the Iowa educational savings plan trust.

"K-12 institution" means any elementary or secondary public, private, or religious school as defined in Section 529 of the Internal Revenue Code.

"Member of the family" means a member of the family as defined in Section 529, except that for a qualified rollover to ~~a Section 529A~~ an ABLE account, "member of the family" shall mean as defined in Section 529A of the Internal Revenue Code.

"Nonqualified withdrawal" means a withdrawal from an account that is not a qualified withdrawal or a qualified rollover.

~~*"Participant"* means the owner of an account.~~

"Participation agreement" means the form that the ~~participant~~ account owner submits to the plan to identify the ~~participant~~ account owner, beneficiary, plan, and other information that may be requested by the plan.

"Plan" means either (1) ~~college savings Iowa~~ ISave 529, (2) ~~Iowa advisor~~ IAdvisor 529 plan, or (3) any other college savings plan established by the program administrator under the Iowa educational savings plan trust.

"Program administrator" means the treasurer of state.

"Program description" means the description of each plan provided to ~~participants~~ account owners setting forth information with respect to the plan.

"Qualified higher education expenses" means qualified higher education expenses as defined in Section 529. Any reference to qualified higher education expenses includes a reference to expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private or religious school as defined in Section 529.

"Qualified rollover" means a distribution of amounts from a plan, which, within 60 days of such distribution, is transferred: (1) to another qualified tuition program for the benefit of the same beneficiary, provided that it has been at least 12 months from the date of a previous transfer to a qualified tuition program for that beneficiary; (2) to another qualified tuition program (or an account in another plan) for the benefit of a member of the family of the beneficiary; or (3) to ~~a Section 529A~~ an ABLE account for the beneficiary or member of the family of the beneficiary, subject to ABLE account contribution limits. "Qualified rollover" also means a distribution from a plan made in a direct transfer-to-trustee transfer to a Roth IRA in accordance with the rules under 529(c)(3)(E) of the Internal Revenue Code.

"Qualified withdrawal" means a withdrawal from an account used to pay qualified higher education expenses.

"Section 529" means Section 529 of the Internal Revenue Code.

"Successor ~~participant~~ account owner" means a successor to the ownership of an account designated as such in accordance with rule 781—16.10(12D) and the applicable program description.

ITEM 2. Amend rule 781—16.3(12D) as follows:

781—16.3(12D) Participation agreement and program description. The following material shall be used to administer the Iowa educational savings plan trust.

16.3(1) Each ~~participant~~ account owner shall submit a participation agreement in order to open an account. The participation agreement shall be signed and dated by the ~~participant~~ account owner to verify that the ~~participant~~ account owner agrees to the terms and conditions of the program. For online applications, ~~participants~~ the account owner must confirm that ~~they have~~ the account owner has read the terms and conditions prior to submitting the application.

16.3(2) Each plan will have a program description setting forth the terms of the plan and describing the investments, procedures and fees applicable to that plan. Each program description shall also set forth the privacy policy adopted by the program administrator for that plan. Persons interested in a plan should consult the program description. A program description may be changed at any time by the program administrator, and any such change may impact the rights of ~~participants~~ account owners and beneficiaries under the plan.

ITEM 3. Amend rule 781—16.4(12D) as follows:

781—16.4(12D) Forms.

16.4(1) Appropriate forms must be completed on paper, online or via telephone (whichever is applicable for the requested actions) to perform the actions listed below. Current forms are available online at ~~www.collegesavingsiowa.com~~ ISave529.com for ~~college savings Iowa~~ ISave 529 and at www.iowaadvisor529.com for the ~~Iowa advisor~~ IAdvisor 529 plan. Actions ~~which~~ that require the completion of an appropriate form include the following:

a. No change.

b. Account changes.

(1) Update the ~~participant~~ account owner or beneficiary contact information.

(2) to (4) No change.

c. to *f.* No change.

16.4(2) The contractor may from time to time provide additional forms for use by ~~participants~~ account owners and beneficiaries in connection with actions involving a plan and will make those forms available online and in paper format and may authorize substitute forms for a plan or a process in lieu of existing forms.

ITEM 4. Amend rule 781—16.5(12D) as follows:

781—16.5(12D) ~~Participant~~ Account owner eligibility. ~~Participants~~ Account owners must meet the following requirements:

16.5(1) The ~~participant~~ account owner must be an individual, individual's legal representative, trust, estate, or an organization described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code.

16.5(2) An individual ~~participant~~ account owner must be at least 18 years old and a United States citizen or resident alien with a valid social security number or tax identification number.

16.5(3) ~~A participant~~ An account owner shall execute a participation agreement that specifies the plan selected by the ~~participant~~ account owner and the terms and conditions under which the ~~participant~~ account owner shall participate in the trust.

16.5(4) ~~A participant~~ An account owner shall, on signing a participation agreement, provide the plan with the ~~participant's~~ account owner's social security number or tax identification number and the other information required on the participant agreement.

16.5(5) ~~Participants which~~ Account owners that are trusts must submit evidence that the individual trustee is so authorized and agrees to the terms and conditions of the participation agreement and must provide the information requested by the program administrator. ~~Participants which~~ Account owners that are described in Section 501(c)(3) of the Internal Revenue Code must provide their tax identification number and any other information requested by the program administrator.

ITEM 5. Amend rule 781—16.6(12D) as follows:

781—16.6(12D) Beneficiary eligibility. A beneficiary of a participation agreement may be designated at any time after birth and assignment of a social security number. This rule establishes the eligibility criteria for a beneficiary.

16.6(1) No change.

16.6(2) ~~A participant~~ An account owner shall, on signing a participation agreement, provide the contractor a valid social security number for the beneficiary.

ITEM 6. Amend rule 781—16.7(12D) as follows:

781—16.7(12D) Program administrator rights and responsibilities.

16.7(1) The program administrator reserves the right to:

a. No change.

b. Freeze an account or suspend account services or do both upon the notification to the plan of the death of ~~a participant~~ an account owner until the plan receives required documentation in good order and reasonably believes that it is lawful to transfer the account ownership to the successor ~~participant~~ account owner;

c. Redeem an account, without the ~~participant's~~ account owner's permission, in cases of threatening conduct or suspicious, fraudulent, or illegal activity; and

d. Reject a contribution for any reason, including contributions that the plan believes are not in the best interests of the plan, a portfolio, or the ~~participants~~ account owners.

16.7(2) The risk of market loss, tax implications, penalties, and any other expenses, as a result of such an account freeze, account redemption, or contribution rejection, will be solely the ~~participant's~~ account owner's responsibility.

16.7(3) The contractor will provide each ~~participant~~ account owner a fourth-quarter statement. In addition, the program administrator will provide each ~~participant~~ account owner that had an account with either contributions or withdrawals in the first, second, or third quarter with a quarterly statement for that account.

ITEM 7. Amend rule 781—16.8(12D) as follows:

781—16.8(12D) Contributions. Contributions are deductible in accordance with Iowa income tax laws and administrative rules of the department of revenue. Participation agreements shall be for the benefit of a specific beneficiary. This rule provides for implementation of this provision.

16.8(1) ~~Participants~~ Account owners are allowed to make contributions at any time during the calendar year provided that each contribution is made in accordance with the minimum contribution and other requirements set forth in the program description.

16.8(2) No change.

16.8(3) The program administrator shall determine the adjusted maximum annual amount that ~~a participant~~ an account owner may contribute and deduct from Iowa income taxes pursuant to Iowa Code chapter 422 on behalf of a beneficiary for the calendar year by applying the applicable inflation adjustment. The adjusted annual maximum amount shall be communicated to participants in the plans and to the public in any reasonable manner determined by the program administrator.

ITEM 8. Amend rule 781—16.9(12D) as follows:

781—16.9(12D) Substitution or change of beneficiary. Beneficiaries may be changed subject to the rules and regulations of the program administrator. This rule establishes the criteria for substituting one beneficiary for another. Beneficiary changes shall also be subject to the procedures set forth in the applicable program description.

16.9(1) No change.

16.9(2) ~~A participant~~ An account owner may request that a beneficiary be substituted by submitting the appropriate form to the contractor.

ITEM 9. Amend rule 781—16.10(12D) as follows:

781—16.10(12D) Change of ~~participant or~~ account owner. The ~~participant~~ account owner is the owner of the account and, as such, has the exclusive right to cancel the participation agreement or change the designated beneficiary in accordance with these rules and the applicable program description.

16.10(1) ~~A participant~~ An account owner may transfer the ~~participant's~~ account owner's current ownership rights in an account to another eligible individual, an individual's legal representative, a trust, an estate, or an organization described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code or to a beneficiary. To do so, the ~~participant~~ account owner shall complete the appropriate form.

16.10(2) ~~A participant~~ An account owner may also designate a successor on the participation agreement. ~~A participant~~ An account owner may change the designated successor by completing the appropriate form. The designated successor shall succeed to the ownership of the account in the event of the death of the ~~participant~~ account owner. Upon the death of the ~~participant~~ account owner, the successor ~~participant~~ account owner must notify the plan by submitting a completed participant agreement form and a certified copy of the death certificate. The change in ownership of the account will become effective for the successor ~~participant~~ account owner once this paperwork has been received and processed.

16.10(3) In the event ~~a participant or other~~ an account owner dies and has not designated a successor to the account, the following criteria will be used.

a. and *b.* No change.

16.10(4) The ~~participant~~ account owner may name a successor to the account even though the successor may already have established or may have plans to establish a plan account.

ITEM 10. Amend rule 781—16.11(12D) as follows:

781—16.11(12D) Qualified withdrawals. This rule establishes the procedures for the payment of qualified withdrawals.

16.11(1) The ~~participant~~ account owner must initiate a withdrawal for qualified or nonqualified withdrawals. The ~~participant~~ account owner must file the appropriate form with the contractor.

16.11(2) Qualified withdrawals will be paid in one of three ways once the form has been received by the contractor:

a. No change.

b. Directly to the ~~participant~~ account owner.

c. Directly to the beneficiary at eligible educational institutions only.

16.11(3) No change.

16.11(4) Each qualified withdrawal will be comprised partly of contributions and partly of earnings, based upon the same proportion that contributions and earnings comprise the ~~participant's~~ account owner's account at the time of the withdrawal.

16.11(5) Funds that are distributed to ~~a participant~~ an account owner pursuant to this rule shall be reported to the IRS on a 1099-Q in the tax year in which the withdrawal is made. The ~~participant~~ account owner will receive the 1099-Q for any withdrawal paid to the ~~participant~~ account owner. The beneficiary will receive the 1099-Q for any withdrawal paid to the beneficiary or institution of higher education. The individual receiving the 1099-Q must determine whether the withdrawal was qualified or nonqualified.

16.11(6) ~~A participant~~ An account owner may transfer any remaining balance in one account to an existing or new account for another designated beneficiary by completing a new participation agreement with the contractor.

16.11(7) No change.

ITEM 11. Amend rule 781—16.12(12D) as follows:

781—16.12(12D) Nonqualified withdrawals and cancellation. Iowa Code section 12D.5 provides that any ~~participant~~ account owner may cancel a participation agreement at will. This rule establishes the criteria for nonqualified withdrawals from an account or for the cancellation of a participation agreement.

16.12(1) A nonqualified withdrawal is one in which the funds are used for a purpose other than the payment of or reimbursement for qualified educational expenses. ~~A participant~~ An account owner may at any time make a nonqualified withdrawal of a portion of the amount in an account or cancel a participation agreement, without cause, by submitting to the contractor the appropriate form. A nonqualified withdrawal will be paid only to the ~~participant~~ account owner.

16.12(2) If the participation agreement is canceled, the ~~participant~~ account owner is entitled to the amount in the account, subject to any applicable fees and expenses. The balance shall be mailed or otherwise sent to the ~~participant~~ account owner after receipt by the contractor of the appropriate form.

16.12(3) Funds that are distributed to ~~a participant~~ an account owner in a nonqualified withdrawal pursuant to this rule shall be reported to the IRS on a 1099-Q in the tax year in which such withdrawal is made. The ~~participant~~ account owner will receive the 1099-Q for any nonqualified withdrawals. The individual receiving the 1099-Q must determine whether the withdrawal was qualified or nonqualified. Nonqualified withdrawals may be subject to state and federal taxes and penalties.

ITEM 12. Rescind rule 781—16.13(12D) and adopt the following **new** rule in lieu thereof:

781—16.13(12D) Qualified rollover. This rule establishes the procedures for the payment of a qualified rollover.

16.13(1) The account owner must initiate a rollover and must file the appropriate form with the contractor.

16.13(2) Qualified rollovers will be paid in one of the following ways once the form has been received by the contractor:

a. Directly to the account owner, provided that within 60 days of such distribution, the funds are recontributed from the account owner as described in paragraph 16.13(2)*"b," "c"* or *"d."*

b. Directly to another qualified tuition program for the benefit of the designated beneficiary.

c. Directly to another account designated beneficiary under a qualified tuition program who is a member of the family of the designated beneficiary with respect to which the distribution as made.

d. Before January 1, 2026, directly to an ABLE account of the designated beneficiary or a member of the family of the designated beneficiary.

e. Notwithstanding any of the foregoing, any qualified rollover to a Roth IRA under Section 529 must be paid in a direct trustee-to-trustee transfer to a Roth IRA maintained for the benefit of such designated beneficiary.

16.13(3) Rollovers to a Roth IRA with respect to a designated beneficiary for such taxable year and all prior taxable years may not exceed thresholds set out in Section 529.

16.13(4) Each qualified rollover will be comprised partly of contributions and partly of earnings, based upon the same proportion that contributions and earnings comprise the account owner's account at the time of the rollover.

16.13(5) Funds that are distributed to an account owner pursuant to this rule shall be reported to the IRS on a 1099-Q in the tax year in which the rollover or withdrawal is made. The beneficiary will receive the 1099-Q for any withdrawal or rollover paid to the beneficiary. The individual receiving the 1099-Q must determine whether the rollover was qualified or nonqualified.

16.13(6) The Iowa state income tax treatment of a qualified rollover from an account shall be as set forth in Iowa Code chapter 422. A rollover that is not a qualified rollover shall be treated as a nonqualified withdrawal.

ARC 8129C

TREASURER OF STATE[781]

Notice of Intended Action

Proposing rulemaking related to unclaimed property and providing an opportunity for public comment

The Treasurer of State hereby proposes to amend Chapter 9, "Unclaimed Property," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 556.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 556.

Purpose and Summary

This proposed rulemaking updates the rules regarding the reporting and claiming of unclaimed property. It provides additional guidance for the reporting of individual retirement accounts (IRAs), retirement accounts, and other tax-advantaged savings vehicles.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Office of the Treasurer of State for a waiver of the discretionary provisions, if any, pursuant to 781—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Office of the Treasurer of State no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

Molly Widen
Office of the Treasurer
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Email: molly.widen@tos.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind rule 781—9.3(556) and adopt the following **new** rule in lieu thereof:

781—9.3(556) Forms.

9.3(1) Appropriate forms must be completed on paper or online (whichever is applicable for the requested actions) to perform the actions listed below. Current forms are available online at www.greatiowatreasurehunt.com or as supplied by the state treasurer's office.

9.3(2) Forms required by the office include but are not limited to the following:

a. Claim Form.

b. Holder Reimbursement Form.

c. Affidavit of Administration.

This rule is intended to implement Iowa Code chapter 556.

ITEM 2. Amend rule **781—9.4(556)**, definition of "Gift certificate," as follows:

"Gift certificate" means a merchandise certificate ~~or electronic gift card~~ conspicuously designated as a gift certificate ~~or electronic gift card~~ and generally purchased by a buyer for use by a person other than the buyer.

ITEM 3. Adopt the following **new** definitions of "Electronic authentication," "Gift card" and "Locator" in rule **781—9.4(556)**:

"Electronic authentication" means the use of an automated government or private sector database to confirm the identity of a claimant.

"Gift card" means an electronic gift card conspicuously designated as a gift card and generally purchased by a buyer for use by a person other than the buyer redeemable for goods or services from the issuing merchant or its affiliates.

"Locator" means a person hired or engaged to assist in the recovery of unclaimed property reported into the Act.

ITEM 4. Rescind the definitions of "Finder" and "Finder agreement" in rule **781—9.4(556)**.

ITEM 5. Amend subrule 9.5(3) as follows:

9.5(3) Except for unclaimed accounts ~~of less than $50 at the time of reporting~~ reported pursuant to Iowa Code section 556.11(1), all dormancy fees assessed against an unclaimed account must be disclosed in the report of unclaimed property filed with the division.

ITEM 6. Amend rule 781—9.7(556) as follows:

781—9.7(556) Reporting of stocks—non-freely transferable and worthless securities. A holder ~~is not required to~~ shall not report or deliver to the division a security identified by the holder as a non-freely transferable security. Upon determination by the division or the holder that a security is no longer a non-freely transferable security, the security shall be subsequently reported and remitted on the next regular (annual) date prescribed for delivery of securities pursuant to the Act. The holder shall make a determination annually whether a security that has not been reported or delivered to the division on the basis that it is non-freely transferable is no longer non-freely transferable.

This rule is intended to implement Iowa Code section 556.5.

ITEM 7. Amend rule 781—9.8(556) as follows:

781—9.8(556) Reporting of individual retirement accounts (IRAs) and other retirement accounts.

9.8(1) ~~The~~ Except as provided in subrule 9.8(2), the reporting and delivery of property in an individual retirement account, defined contribution plan, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States shall be extended until three years after the earliest of the following has occurred:

a. The date of unsuccessful distribution;

b. The date of the required distribution, as stated in agreements governing the account; or

c. The date specified in the income tax laws of the United States by which a distribution must occur in order ~~for the owner~~ to avoid a tax penalty, including where the owner has died.

9.8(2) The reporting and delivery of a property in a Roth IRA shall be extended until three years after the date specified in the income tax laws of the United States by which a distribution must occur in order to avoid a tax penalty following the death of the owner. In the absence of knowledge of the life status of a Roth IRA owner, the owner will be presumed to have died upon reaching 110 years of age.

~~**9.8(2)**~~ **9.8(3)** In reporting individual retirement accounts and other retirement accounts, holders shall include the name, address, relationship to the owner, and social security number of the account beneficiary, to the extent such information is known.

9.8(4) In reporting individual retirement accounts and other retirement accounts, holders shall comply with the Internal Revenue Service Revenue Ruling 2018-17 and all other applicable tax withholding and reporting requirements.

This rule is intended to implement Iowa Code section 556.7.

ITEM 8. Amend rule 781—9.12(556) as follows:

781—9.12(556) Reporting of tax-advantaged ~~college savings~~ accounts.

9.12(1) Property held in a plan account described in ~~Section~~ Sections 223, 529 and 529A of the Internal Revenue Code or held in ~~an~~ a nonretirement account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the owner three years from the later of:

a. The date a second item sent to the owner by first-class mail was returned as undeliverable by the United States Postal Service (USPS), unless a later mailing by first-class mail to the apparent owner was

not returned as undeliverable or, for an apparent owner not receiving communications from the holder by first-class mail, the date of the last indication to the holder by the apparent owner of interest in the property; or

b. Thirty years have elapsed after the date the account was opened.

~~**9.12(1)** The date a second item sent to the owner by first-class mail was returned as undeliverable by the United States Postal Service (USPS), unless a later mailing by first-class mail to the apparent owner was not returned as undeliverable or, for an apparent owner not receiving communications from the holder by first-class mail, the date of the last indication to the holder by the apparent owner of interest in the property; or~~

9.12(2) ~~Thirty years have elapsed after the date the account was opened.~~ Uncashed distribution checks issued from tax-advantaged accounts are reportable three years from the date the property became reportable pursuant to Iowa Code section 556.7.

This rule is intended to implement Iowa Code section 556.7.

ITEM 9. Amend rule 781—9.13(556) as follows:

781—9.13(556) Reporting of unused gift certificate and gift card balances.

9.13(1) Except as provided in subrules 9.13(2) and 9.13(3), an unused balance on a gift certificate or gift card is reportable five years from the date of issuance of the gift certificate or gift card or last usage, whichever is later.

9.13(2) An unused balance on a gift certificate or gift card that is not redeemable for cash, which was issued prior to July 2, 2014, is reportable five years from the date of issuance of the gift certificate or gift card or last usage, whichever is later.

9.13(3) An unused balance on a gift certificate or gift card that is not redeemable for cash, which was issued after July 1, 2014, and is not subject to expiration or service fees, is not subject to reporting and delivery under Iowa Code chapter 556.

~~This rule is intended to implement Iowa Code section 556.9.~~

9.13(4) An unused balance on a gift certificate or gift card that is not redeemable for cash, which was issued after July 1, 2014, and is subject to expiration or service fees, is subject to reporting and delivery under Iowa Code chapter 556. A gift certificate or gift card is subject to expiration or service fees if the face of the gift certificate or gift card so indicates, regardless of whether the issuer of the gift certificate or gift card waives such expiration or fees.

This rule is intended to implement Iowa Code section 556.9.

ITEM 10. Amend rule 781—9.18(556) as follows:

781—9.18(556) Information required to be included in report.

9.18(1) Every ~~Holder Report Form~~ holder report form submitted to the division must include, to the extent such information is available to the holder, the following information:

a. to *i.* No change.

9.18(2) The division may determine that the information included in the ~~Holder Report Form~~ holder report form is nonconforming and may require that a holder revise its report in circumstances where the ~~Holder Report Form~~ holder report form:

a. to *g.* No change.

This rule is intended to implement Iowa Code section 556.11.

ITEM 11. Amend rule 781—9.19(556) as follows:

781—9.19(556) Early reporting of unclaimed property.

9.19(1) A holder may request permission to report and deliver property to the division before it is presumed abandoned by sending a written request to the division.

9.19(2) The request must identify the property to be reported and delivered and the reasons for requesting permission to report and deliver the property prior to the date it is presumed abandoned.

9.19(3) The division may, at its sole discretion, consent to early reporting and delivery according to terms and conditions prescribed by the division.

9.19(4) A retirement plan administrator or other responsible fiduciary terminating a retirement plan may, following a diligent search for missing participants, report and remit any unclaimed benefits contemporaneous with the termination of the plan and is neither required to wait for three years to elapse pursuant to Iowa Code section 556.7 nor obtain written permission from the division for early reporting.

This rule is intended to implement Iowa Code section 556.11.

ITEM 12. Amend rule **781—9.20(556)** as follows:

781—9.20(556) Owner notification and holder due diligence.

9.20(1) Holders shall exercise reasonable and necessary due diligence consistent with good business practice in attempting to reactivate dormant accounts and to locate owners of unclaimed property.

9.20(2) If a holder fails to perform due diligence as required by Iowa Code section 556.11(5), the treasurer may charge five dollars for each name and address account reported if 35 percent or more of the accounts are claimed within 24 months immediately following the filing of a holder report.

9.20(3) If a holder fails to ~~undertake~~ perform due diligence as required by Iowa Code section 556.11, the holder will not have met the good-faith reporting standard of Iowa Code section 556.14 and the division will not be obligated to defend the holder against any claim of liability.

This rule is intended to implement Iowa Code section 556.11.

ITEM 13. Rescind rule 781—9.21(556) and adopt the following **new** rule in lieu thereof:

781—9.21(556) Reporting aggregate amounts to the division. Holders may report in the aggregate property with a value under $50, but holders are discouraged from doing so since it impedes the ability of the division to expeditiously pay claims. For this reason, holders are encouraged not to aggregate, regardless of item value. If a holder chooses to report in the aggregate, the holder shall be responsible to provide information required to verify and validate a claim made to aggregated properties.

This rule is intended to implement Iowa Code section 556.11.

ITEM 14. Amend rule 781—9.23(556) as follows:

781—9.23(556) Regulation of ~~finders~~ locators.

9.23(1) Pursuant to Iowa Code section 556.11(10), agreements or contracts between ~~finders~~ locators and owners to pay compensation to recover or assist in the recovery of abandoned property are unenforceable if made within 24 months of the date the property was received by the division. Additionally, if a holder is in possession of property that has been deemed abandoned but has not yet been timely reported and delivered to the division, an agreement to pay compensation to recover or assist in the recovery of such property is unenforceable. In no case shall the ~~finder~~ locator fees or compensation exceed 15 percent of the amount of the property subject to claim.

9.23(2) A claim form signed by a ~~finder~~ locator shall not be reviewed by the division. The apparent owner or owner's legal representative shall make direct contact with the division and sign the claim form. All communication regarding the claim will be sent to the claimant. A signed, dated and notarized copy of any original agreement or contract between a ~~finder~~ locator and an owner shall be included with the filing of any claim. Handwritten agreements ~~or contracts~~ will not be accepted. To be valid, the agreement must disclose the nature and value of the property and the name and address of the person in possession.

9.23(3) The division shall not release to a locator information deemed confidential pursuant to Iowa Code section 22.7(59), even where a claimant has authorized such release.

~~**9.23(3)**~~ **9.23(4)** ~~Owner information~~ Certain publicly releasable information about owners shall be reproduced at least annually in a format to be determined by the treasurer and shall be provided to anyone requesting the information ~~for~~. The treasurer may assess a fee of $20 per copy. The fee shall be

paid in the form of an official check or money order and made payable to the State of Iowa. All fees for owner information shall be received by the division before the owner information is made available.

This rule is intended to implement Iowa Code ~~section~~ sections 22.7(59) and556.11.

ITEM 15. Amend subrule 9.24(1) as follows:

9.24(1) Except as stated in subrules 9.24(2) and 9.24(3), the contents of safe deposit boxes and other tangible property received by the division shall be held by the division for not less than one year, after which time the property may be sold, held, or destroyed.

a. No employee, person related to an employee of the Iowa treasurer of state living in the same household, or contractor that provided auction or appraisal services may directly or indirectly bid on safe deposit box contents or other tangible property offered for sale by the division.

b. For purposes of this subrule, "related to an employee" shall mean the employee's spouse, child, stepchild, grandchild, parent, stepparent, sibling, stepsibling, or spouse of any of the foregoing persons.

ITEM 16. Amend rule 781—9.25(556) as follows:

781—9.25(556) Filing of owner claims.

9.25(1) All claims for abandoned property shall be filed with the division on the division's claim form or through such other means or process as the division finds acceptable.

9.25(2) The claim form shall be completed in its entirety and must include the following information:

a. Social security number or Federal Tax Identification Number, or both, of every claimant;

b. Name, complete mailing address, telephone number and ~~e-mail~~ email address, if applicable, of every claimant;

c. Signature of claimant(s). ~~If the claim includes stock(s) or safe deposit box contents, the signature must be notarized.~~ The treasurer may set through policy a cash claim limit ~~which requires~~, stock estimated value, and safe deposit box contents that require a signature to be notarized.

9.25(3) The treasurer shall consider any claim filed under the Act.

9.25(4) The treasurer may waive the filing of a claim form pursuant to Iowa Code section 556.19.

This rule is intended to implement Iowa Code section 556.19.

ITEM 17. Amend subrule 9.27(1) as follows:

9.27(1) A business may, in addition to providing other evidence of entitlement, be required to provide the following supporting documentation with its ~~claims, as applicable~~ claim:

a. Proof, as deemed suitable by the division, that the person signing the claim form is an officer of the business and has the authority to conduct business on behalf of the entity, such as corporate resolution or other documentation deemed suitable by the treasurer.

b. Documentation setting forth the claimant's federal Employer Identification Number (EIN).

c. A copy of the claimant's biennial report as filed with the office of the secretary of state or a copy of a current corporate tax return.

ITEM 18. Amend rule 781—9.30(556) as follows:

781—9.30(556) Claims by holders for owner reimbursements. A holder may request payment from the division under the circumstances set forth below. Regardless of whether the holder is represented by a bona fide third party, the claim must be signed by an officer of the holder. A third party may not act on behalf of the holder to request payment from the division unless such third party provides evidence satisfactory to the division in its sole discretion that such third party is acting as the holder's bona fide representative through general power of attorney, court designation, or similar legal authority. The division may, in its sole discretion, establish a policy ~~which~~ that allows a transfer agent or a reporting agent to sign a holder reimbursement subject to meeting all the requirements set forth by the division under that policy. The establishment of such a policy shall not be construed as creating any right or entitlement of transfer or of reporting agents to sign holder reimbursements, and any such policy may be rescinded or modified at any time at the sole discretion of the division.

9.30(1) The holder has made payment to the apparent owner and filed proof of payment with the division for such a reclaimed asset. As a condition precedent to receiving reimbursement from the division, the holder shall assume liability for the reclaimed assets and indemnify and hold harmless the division from all future claims related to the reclaimed assets.

~~**9.30(2)** The holder directs the division to make payment directly to the rightful owner. The holder shall assume liability for the claimed asset and indemnify and hold harmless the division from all future claims related to the claimed asset.~~

~~**9.30(3)**~~ **9.30(2)** The holder reported the asset in error. As a condition for receiving reimbursement from the division, the holder shall assume liability for the reclaimed asset and indemnify and hold harmless the division from all future claims related to the reclaimed asset.

This rule is intended to implement Iowa Code section 556.19.

ITEM 19. Amend subrule 9.33(3) as follows:

9.33(3) For the purposes of the Act, a money or similar judgment against an apparent owner does not create an interest in the specific property held by the division on behalf of the apparent owner.

ITEM 20. Amend rule 781—9.34(556) as follows:

781—9.34(556) Approval of claims. Each claim submitted to the division is subject to the approval process outlined below. Claims ~~over~~ with a cash value of greater than $5,000 must ~~be authenticated either electronically or through~~ undergo electronic authentication or undergo such other or additional approval process as may be determined by the division. The treasurer may enter into a contract with a suitable third party that provides identity authentication. Claims over a cash value of $5,000 must receive an additional level of approval from a division manager.

9.34(1) to **9.34(3)** No change.

This rule is intended to implement Iowa Code section 556.19.

ITEM 21. Amend subrule 9.35(1) as follows:

9.35(1) Claims shall be paid as follows:

a. In the case of cash claims, final approval shall cause the claim to become part of the settlement process. The settlement file will be submitted to the department of administrative services for payment. State warrants will be mailed or may be obtained from the treasurer's office. At the treasurer's discretion, the division may electronically deliver funds to a claimant's financial institution account. Fees associated with the electronic delivery of funds may be assessed to the claimant.

b. In the case of a claim requiring the transfer of securities, final approval shall result in the division's sending a ~~letter~~ notification to a third-party agent responsible for the transfer of ownership of the stocks/mutual funds, instructing the agent to have ownership of the appropriate number of shares of the property reregistered in the name of the claimant.

ITEM 22. Adopt the following **new** subrules 9.37(5) to 9.37(8):

9.37(5) *Report of the examination findings and demand for delivery.* Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold an audit exit conference with the holder to provide the written report.

9.37(6) *Informal conference.* During the course of an examination, the holder may request an informal conference within the division and its representatives.

9.37(7) *Delivery of examination findings by the holder.* The holder shall deliver to the division within 30 calendar days of issuance of a report of examination and demand for delivery any unclaimed property and interest due, if any, to the division.

9.37(8) *Examination closure letter.* Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division or its agent shall issue an examination closure letter informing the holder that the examination is closed.

ITEM 23. Amend rule 781—9.38(556) as follows:

781—9.38(556) Estimation. The division may use estimation techniques where no holder records exist or the records are insufficient to determine the holder's obligation due pursuant to the Act.

~~**9.38(1)** *Report of the examination findings.* Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold a conference with the holder to provide the written report.~~

~~**9.38(2)** *Delivery of examination findings by the holder.* The holder shall deliver to the division within 30 calendar days any unclaimed property and interest due to the division based upon the examination findings.~~

~~**9.38(3)** *Examination closure letter.* Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division shall issue an examination closure letter informing the holder that the examination is closed.~~

This rule is intended to implement Iowa Code section 556.23.

ITEM 24. Renumber rules **781—9.42(556)** and **781—9.43(556)** as **781—9.43(556)** and **781—9.44(556)**.

ITEM 25. Adopt the following **new** rule 781—9.42(556):

781—9.42(556) Confidentiality of holder data. All information provided by a holder in the form of any report, record, claim, or other document submitted to the division or its agents, with the exception of the name and last-known address of a person appearing to be entitled to unclaimed property actually delivered to the division, shall be confidential and not subject to public release or disclosure.

This rule is intended to implement Iowa Code section 22.7(59).

ITEM 26. Amend renumbered rule 781—9.44(556) as follows:

781—9.44(556) Holder amnesty program. The division may offer a holder amnesty program in order to facilitate compliance by holders that have never reported unclaimed property or have not reported in the last three years. The treasurer may provide notification of an amnesty program via the treasurer's ~~Web site~~ website. The treasurer may waive interest and penalties for the amnesty program.

This rule is intended to implement Iowa Code chapter 556.

ARC 8105C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to organization and operation and providing an opportunity for public comment

The Iowa Utilities Commission hereby proposes to rescind Chapter 1, "Organization and Operation," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3, 474.5 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.4, 474.1, 474.5, 476.1 and 476.2.

Purpose and Summary

The Commission commenced this proposed rulemaking under the provisions of Executive Order 10. This chapter is intended to describe the Commission's organization, operations, and duties. The chapter also contains the Commission's waiver and public information rules.

The Commission is proposing to rescind existing Chapter 1 and promulgate a new version of the chapter with updated language to better reflect current Commission procedures, the removal of unnecessary and unneeded language and provisions, and the reduction of restrictive terms.

Prior to submission of the Notice of Intended Action, the Commission held a technical conference with stakeholders, which included a discussion regarding the proposed new version of Chapter 1. The technical conference was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills); MidAmerican Energy Company (MidAmerican); Iowa-American Water Company (Iowa-American); and ITC Midwest, LLC. The Commission also received written comments from OCA, MidAmerican, IPL, Black Hills, and Iowa-American. Based on the written and oral comments received, the Commission modified Chapter 1 to produce the version of the chapter in this Notice.

The Commission issued an order commencing rulemaking on June 4, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0001.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on August 23, 2023. A public hearing was held on the following date(s):

- September 26, 2023

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

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

August 21, 2024 9 to 11 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

September 4, 2024 9 to 11 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities commission (hereinafter referred to as commission).

199—1.2(17A,474) Scope of rules. These rules apply to all matters before the commission.

199—1.3(17A,474,476) Waivers.

1.3(1) In response to a request, the commission may grant a waiver from a rule adopted by the commission, in whole or in part, as applied to a specific set of circumstances, if the commission finds, based on clear and convincing evidence, that the waiver request meets the requirements of Iowa Code section 17A.9A(2).

1.3(2) The commission may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The commission may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

199—1.4(17A,474) Duties of the commission. The commission regulates the services and rates of certain electric, gas, telephone, water, sanitary sewer, and storm water drainage utilities pursuant to Iowa Code chapter 476. The commission also has jurisdiction over certification of electric power generators pursuant to Iowa Code chapter 476A, franchises for cable and video service providers pursuant to Iowa Code chapter 477A, dual party relay service pursuant to Iowa Code chapter 477C, construction and safety of electric transmission lines pursuant to Iowa Code chapter 478, and the construction and operation of pipelines and underground storage pursuant to Iowa Code chapters 479 and 479B.

199—1.5(17A,474) Organization. The commission consists of the three-member commission, the technical and administrative staff, and the general counsel. The three-member commission is the policymaking body, and the chair serves as the administrator of the commission. As administrator, the chair is responsible for all administrative functions and decisions.

199—1.6(17A,474) Matters applicable to all proceedings.

1.6(1) *Communications.* All communications to the commission, other than those filed through the commission's electronic filing system, may be addressed to the Iowa Utilities Commission, 1375 East Court Avenue, Des Moines, Iowa 50319-0069, unless otherwise specifically directed. Unless otherwise

specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the commission.

1.6(2) *Office hours.* Office hours are 8 a.m. to 4:30 p.m. Monday through Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

199—1.7(22) Public information and inspection of records.

1.7(1) *Public information.* Any interested person may examine all public records of the commission by written request or in person at the commission offices. Public records may be examined at the commission office only during regular business hours, 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Public records in docketed matters may be examined at any time using the commission's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the commission will be made available for public inspection.

1.7(2) *Definitions.*

"Confidential records" means records not available for public inspection under state law.

"Personally identifiable information" means information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit, debit, or charge card number). "Personally identifiable information" does not include information pertaining to corporations.

"Public records" means records of or belonging to the commission that are necessary to the discharge of its duties.

1.7(3) *Records not routinely available for public inspection.* The following records are not routinely available for public inspection.

a. Material exempted from disclosure under Iowa's open records law. Certain public records are confidential under the open records law and cannot be released unless otherwise ordered by a court, by the commission as lawful custodian of the records, or by another person duly authorized to release such information pursuant to Iowa Code section 22.7. A person may request permission to inspect particular records withheld from inspection under this paragraph. If the request is granted, the commission shall withhold the material from public inspection for 14 days to allow the party that submitted the material an opportunity to seek injunctive relief.

b. Tax records. The commission is required to withhold tax records from public inspection pursuant to Iowa Code section 422.20.

c. Materials exempted pursuant to requests deemed granted by the commission. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the commission pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199—Chapter 14, and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer's receipt of a notice of electronic filing without further review or acknowledgement by the commission, and the material or information will be withheld from public inspection subject to the provisions of subparagraph 1.7(6)*"b"*(3).

(1) Negotiated transportation rates and prices for natural gas supply.

(2) Reservation charges for portfolio gas supply contracts.

(3) Terms and prices for all hedging activity, including financial hedges and weather-related information.

(4) Sales data by individual natural gas customer.

(5) Natural gas purchase volumes by individual receipt point, by pipeline.

(6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.

(7) Design day forecasting model reserve margin calculations for natural gas service.

(8) Negotiated purchase prices for electric power, fuel, and transportation.

(9) Electric customer-specific information.

(10) Power supply bills in support of energy adjustment clause filings.

(11) Network improvement and maintenance plans and related extensions and progress reports filed with the commission pursuant to 199—Chapter 39.

(12) Wireless coverage area maps depicting signal strength filed with the commission pursuant to 199—Chapter 39.

(13) Revenue recovery amounts and loop or line count data filed with the commission pursuant to 199—Chapter 39.

(14) Financial reports and loop or line count data included in rate floor data filed with the commission pursuant to 199—Chapter 39.

(15) Loop or line count data included in rate floor data updates filed with the commission pursuant to 199—Chapter 39.

(16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.

(17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company's annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.

(18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.7(4) *Requests that materials or information submitted to the commission be withheld from public inspection.* Any person submitting information or materials to the commission may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. Persons filing material in the commission's electronic filing system shall redact protected information as defined in Iowa Rules of Electronic Procedure 16.602 and 16.603.

a. Marked pages. Each page of the materials to which the request applies shall be marked confidential.

b. Content of request. The request shall contain a statement of the legal basis for withholding the materials from inspection and the supporting facts. The facts shall be supported by an affidavit from a corporate officer (or an individual, if not a business entity) with personal knowledge of the specific facts.

c. Compliance. If a request complies with the requirements of paragraphs 1.7(4)*"a"* and *"b,"* the materials will be temporarily withheld from public inspection. The commission will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection. If no objection to the request for confidential treatment is filed within 20 days, the commission may defer consideration of the request until a public records request is made for the material or information, and the material or information shall be withheld from public inspection subject to the provisions of subparagraph 1.7(6)*"b"*(3).

d. Request denied. If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection unless the commission is directed by a court to keep the information confidential.

1.7(5) *Procedures for the physical inspection of commission records that are routinely available for public inspection.* The records in question will be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files. Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request and, for each document requested, should set out all available information that would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the commission mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the commission's records and information center.

1.7(6) *Procedures for the inspection of commission records that are not routinely available for public inspection.* Any person may request access to records that are not routinely available for public inspection. The following procedures shall apply.

a. Content of request. The request shall include a description of the records requested.

b. Procedure. The commission may take action on the request as follows:

(1) Deny the request with an explanatory statement, if the commission is prohibited from disclosing the records or has determined the requested material is confidential.

(2) Redact any part of the document that the commission is prohibited from disclosing and disclose the remainder.

(3) Notify the interested persons, and withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

1.7(7) *Procedures by which the filer of a confidential record may have a copy released to a named third party.* The filer of a confidential record may request in writing that a confidential record be released to a named third party.

1.7(8) *Advice and assistance.* Individuals who have questions regarding the procedures contained in these rules may contact the commission at the following address: Iowa Utilities Commission, 1375 East Court Avenue, Des Moines, Iowa 50319-0069.

1.7(9) *Data processing system.* As required by Iowa Code section 22.11(1)*"g,"* the commission does not currently have a data processing system that matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

These rules are intended to implement Iowa Code sections 17A.3, 474.1, 474.5, 474.10, 476.1, and 476.2.

ARC 8106C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to electronic filing and providing an opportunity for public comment

The Iowa Utilities Commission hereby proposes to rescind Chapter 14, "Electronic Filing," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3 and 476.2.

Purpose and Summary

The Commission commenced this proposed rulemaking under the provisions of Executive Order 10. The purpose of Chapter 14 is to inform the public of the Commission's requirements, exceptions, and procedures for the electronic filing and service of pleadings; motions; evidence, including testimony; objections; comments; and other documents with the Commission.

The Commission is proposing to rescind existing Chapter 14 and promulgate a new version of the chapter with updated language to better reflect current Commission procedures, the removal of unnecessary and unneeded language and provisions, and the reduction of restrictive terms.

Prior to submission of the Notice of Intended Action, the Commission held a technical conference with stakeholders, which included a discussion regarding the proposed new version of Chapter 14. The technical conference was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company; Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills); MidAmerican Energy Company (MidAmerican); and ITC Midwest, LLC (ITC Midwest). The Commission also received written comments from OCA, MidAmerican, ITC Midwest, and Black Hills. Based on the written and oral comments received, the Commission modified Chapter 14 to produce the version of the chapter in this Notice.

The Commission issued an order commencing rulemaking on June 4, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0014.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 20, 2023. A public hearing was held on the following date(s):

- October 18, 2023

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

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

August 21, 2024 2 to 4 p.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa
September 4, 2024 2 to 4 p.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
ELECTRONIC FILING

199—14.1(17A,476) Purpose. The purpose of these rules is to establish an electronic filing requirement, to identify exceptions to the electronic filing requirement, and to specify procedures regarding electronic filing and service of documents filed with or issued by the commission.

199—14.2(17A,476) Scope and applicability of electronic filing requirement. Electronic filing is mandatory, unless specifically excepted by these rules or the commission. The commission will accept filings electronically pursuant to the rules in this chapter and the commission's published standards for electronic information, available on the commission's website (iuc.iowa.gov) or from the commission's customer service bureau, or as delineated in the commission order or other official statement requiring those filings.

199—14.3(17A,476) Definitions. Except where otherwise specifically defined by law:

"Accepted for filing" ordinarily means a filing will be published in the commission's electronic filing system. Certain documents will be accepted for filing without being published in the commission's electronic filing system. A filing that has been accepted for filing can be rejected if found not to comply with a commission rule or order.

"Electronic filing" means the process of transmitting a document or collection of documents via the Internet to the commission's electronic filing system for the purpose of submitting the document for commission consideration.

"Electronic filing system" or *"EFS"* means the system used by the commission's customer service bureau to accept and publish documents filed electronically, and that allows the public and parties to view most documents filed with or issued by the commission.

"Guest user" means a person who uses EFS without a user ID and password. Guest users are able to view and file documents via EFS.

"Publish" means to make a document available for public viewing or download by uploading it to EFS.

"Registered user" means a person who has complied with the commission's requirements in rule 199—14.6(17A,476) to obtain a user ID and password in order to submit filings for the commission's consideration through EFS.

199—14.4(17A,476) Exceptions. The following types of filings are not subject to the electronic filing requirement:

14.4(1) Filings made by any person who has been excused from the requirement by commission order granting a request for permission to file paper documents. Upon request, the commission may issue an order granting permission to file paper documents and specifying the number of paper copies to be filed.

14.4(2) Informal consumer complaints. Consumers may submit complaints electronically by using the online complaint form available on the commission's website or by email; on paper by mail or facsimile; or by personally delivering the written complaint to the commission's customer service bureau. Informal consumer complaint files are available for public inspection from the commission's customer service bureau. An informal complaint file will be made available for public viewing in EFS, to the extent reasonable.

14.4(3) Written objections to applications for electric transmission line franchises, pipeline permits, or hazardous liquid pipeline permits. Written objections in these cases may be submitted through EFS or may be submitted in writing. Electronic filing of objections is preferred. A suggested objection form is available on the commission's website.

14.4(4) Comments from persons in any other proceeding in which comments from the public are permitted. Persons may submit comments through EFS pursuant to these rules, by using any applicable online comment form available on the commission's website, by email, or by letter. Comments from persons will ordinarily be published in EFS.

199—14.5(17A,476) Electronic filing procedures and formats. Electronic documents shall be filed in accordance with the following procedures and formats:

14.5(1) Persons who make infrequent filings with the commission may file as a guest user. Persons who make regular filings with the commission may register to obtain a user ID and password pursuant to registration procedures specified in rule 199—14.6(17A,476). The commission may direct an infrequent filer to become a registered user.

14.5(2) Electronic filings are made by uploading a document or collection of documents into EFS. Emailing a document to the commission does not constitute filing the document.

14.5(3) A filer should provide all necessary information when electronically filing a document.

14.5(4) Electronically filed documents are to be named in a way that accurately describes the contents of each document.

14.5(5) All documents are to be formatted in accordance with the commission's standards for electronic information, which are available on the commission's website or from the commission's customer service bureau.

14.5(6) Any text-based document that has been scanned for electronic filing should be full-text searchable to the extent that is reasonably possible.

14.5(7) Spreadsheets and databases included in filings shall include all cell formulae and cell references. Spreadsheets with macros will not be accepted. Where a filer requests confidential treatment of cell formulae and cell references or any other information included in a spreadsheet or database, the filer may file a request for confidential treatment and two versions of the document: a public version of the document with the cell formulae deactivated and other confidential information redacted and a version not for publication containing live formulae and the information for which confidential treatment is requested.

14.5(8) Hyperlinks and other navigational aids may be included in an electronically filed document. Each hyperlink should contain a text reference to the target of the link. Although hyperlinks may be included in a document as an aid to the reader, the material referred to by the hyperlinks is not considered part of the official record or filing unless the referenced material itself is filed (e.g.,

hyperlinking a document previously filed in EFS). Hyperlinks to cited authority do not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

14.5(9) EFS will display an "Upload Complete" notice when the upload of the filing is completed. If the "Upload Complete—Filing Submitted" notice does not appear, the filer may contact the commission's customer service bureau during regular business hours to determine the status of the filing.

14.5(10) After reviewing the filing, the commission's customer service bureau will either accept or reject the filing. If the filing is accepted, the document (if not confidential) will be published in EFS, and an electronic file stamp indicating the docket number(s) and date of filing will be added to the published document. A Notice of Electronic Filing containing a link to the filing will be sent by email to the filer and to all parties identified on the service list as able to receive electronic service. From the link, the recipient of the notice can view the filing. Where a document is accompanied by a request for confidential treatment, the filing will include the public version of the document, in which information identified as confidential has been redacted. Where a filing consists only of a confidential document, such as a response to a commission survey or other inquiry, that the commission has deemed confidential pursuant to an order requiring the response, the document will not be published. Acceptance of a document for filing is not a final determination that the document complies with all commission requirements and is not a waiver of such requirements. If a filing is rejected, a Notice of Rejection explaining why the filing has been rejected will be sent by email to the filer, or the filer will be contacted by other appropriate means.

14.5(11) Errors. If a filer discovers an error in the electronic filing or publishing of a document, the filer should contact the commission's customer service bureau as soon as possible. The customer service bureau will review the situation and advise the filing party how the error will be addressed by the customer service bureau and what further action by the filer may be necessary, including a revised filing with the commission. Ordinarily, any modification to an EFS filing will require a revised filing in EFS. If errors in the filing or publishing of a document are discovered by the commission's customer service bureau, commission staff will ordinarily notify the filer of the error and advise the filer of what further action, if any, is necessary to address the error.

14.5(12) Electronic documents and the hearing process. Any prefiled testimony or exhibit that is altered or corrected at the hearing in any way and admitted into evidence, and any paper documents that are newly admitted into evidence as exhibits at the hearing, must be electronically filed at the earliest opportunity but no later than three business days after the material is admitted into evidence.

199—14.6(17A,476) Registration. A person may become a registered user by completing the registration form, which is available on the commission's website, and obtaining a user ID and password. If a user believes the security of an existing password has been compromised, the user should change the password immediately and may contact the commission's customer service bureau.

199—14.7(17A,476) Electronic record. The official agency record in any proceeding is the electronic record maintained in EFS and any paper filings accepted by the commission that are not stored in electronic form.

199—14.8(17A,476) Maps, plan and profile drawings, and other oversized documents. Any map, plan and profile drawing, or oversized document that is to be filed with the commission should be electronically filed as a PDF (Portable Document Format) or such electronic format as designated by the commission. If the map, drawing, or oversized document cannot be printed on 11- by 17-inch or smaller-sized paper in legible and usable form, as determined by the commission, the original and four paper copies of each map, drawing, or other document filed pursuant to this rule should also be filed unless more copies are directed by commission order or request. Maps and other documents should be drawn to a scale appropriate for the level of detail to be shown. However, if the map, drawing, or other document is not electronically filed, then the number of paper copies filed is governed by other applicable rules, including the "hearings" rule in 199—Chapter 7, which concerns the required number of copies for evidence introduced at hearing, and 199—Chapter 26, which contains additional requirements regarding

the number of paper copies of minimum filing requirements required to be filed in rate and tariff proceedings.

199—14.9(17A,476) When electronic filings can be made; official filing date. Unless otherwise ordered, an electronic filing can be made at any time outside of any maintenance periods during which the system will not be available. The Notice of Electronic Filing generated when the document is accepted for filing will record the date of the filing of the document, which will be the official filing date of the document.

199—14.10(17A,476) EFS unavailability; technical difficulties. Scheduled EFS maintenance and unscheduled EFS outages that are expected to last more than 30 minutes will be posted on the commission's website. It is the responsibility of the filer to ensure that a document is timely filed to comply with jurisdictional deadlines. A technical failure of EFS, the filer's own computer equipment, or any other part of the filing system will not excuse the filer from compliance with a jurisdictional filing deadline. If a filer is not able to meet a nonjurisdictional deadline because of a technical failure, the filer should, by the earliest available conventional or electronic means, file the document and seek appropriate relief from the commission.

199—14.11(17A,476) Documents containing confidential material. Confidential documents will not be published in EFS. When filing a document containing confidential information, a person shall file one public version of the document with the confidential information redacted according to the commission's standards for electronic information and one version of the document containing the confidential information. The two versions of the document should be named according to the following convention: "Document Title—Public" and "Document Title—Confidential." It is the responsibility of the person submitting a public version of the electronic document to take appropriate measures to ensure that any embedded information for which confidential treatment is sought is nonviewable, nonsearchable, and nonreversible. Each page of the confidential version of the document shall be marked in a way that identifies it as belonging to the confidential version of the document. The confidential material itself is to be highlighted or otherwise distinguished on the page to identify what specific information is confidential. A filing including a document the filer asserts contains confidential information is also to include a separate document containing the request for confidential treatment pursuant to 199—Chapter 1. Documents that the filer asserts contain confidential information will not be electronically served by EFS, as provided in 199—Chapter 14.

199—14.12(17A,476) Signatures.

14.12(1) *Filings by registered users.* The use of a user ID and password in accordance with the registration procedures specified in rule 199—14.6(17A,476) constitutes the filer's signature. Filers should use "/s/" followed by the signer's name to indicate a signature where applicable. All pleadings shall include a signature block containing the signer's name, title, address, email address, and telephone number.

14.12(2) *Filings by guest users.* The personal information provided to submit a filing as a guest user constitutes the filer's signature. Filers should use "/s/" followed by the signer's name to indicate a signature where applicable. All pleadings should also include a signature block containing the signer's name, title, address, email address, and telephone number.

199—14.13(17A,476) Original documents. When a commission rule directs the filing of an original document not prepared by the filer or the party on whose behalf the document is filed, such as an invoice or other document, the filer should scan the original document and file the scanned document in EFS or request advance commission approval of other arrangements. The filer must retain the original document for a period of two years or until the conclusion of the proceeding or the conclusion of an appeal, whichever is greater.

199—14.14(17A,476) Electronic service.

14.14(1) *Service on parties able to receive electronic service.* Unless otherwise provided by commission rule or order, whenever a document is filed electronically, a Notice of Electronic Filing will be generated and sent to the filer and to representatives of the other parties who are able to receive electronic service and who are on the service list. This notice will constitute valid service of electronically filed documents and commission orders on parties accepting electronic service. The notice will include a service list providing names, addresses, and email addresses of the persons who were sent the notice. No additional proof or certificate of service is necessary in matters in which all parties are able to receive electronic service. It is the responsibility of the filer to review the notice to ensure that all parties have been provided notice. All parties are responsible for ensuring that their email accounts are monitored regularly and that email notices sent to the account are opened in a timely manner.

14.14(2) *Service on parties for whom electronic service is not available.* The service list in each proceeding will be available in EFS. The list will identify the representatives for each party and will also indicate the parties for whom electronic service is not available. A filer is to serve a paper copy of any electronically filed document on all persons entitled to service for whom electronic service is not available unless the parties agree to other arrangements. The date of service is the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. A party serving a paper copy of any electronically filed document on a person for whom electronic service is not available is to file a certificate of service stating the manner in which service on such person was accomplished.

14.14(3) *Service of commission-generated documents.* Orders issued by the commission will be electronically filed. EFS will electronically transmit notice of posting of orders to all parties on the service list that are able to receive electronic service. This notice will constitute valid service of the order. The commission's customer service bureau will mail paper copies of orders to parties who are not able to receive electronic service and to others as ordered.

14.14(4) *Exceptions.* Electronic service through EFS to parties other than the consumer advocate division of the department of justice is not to be used to serve a document that:

a. The filer asserts contains confidential material, or

b. Initiates a proceeding, such as a complaint or application, except for orders opening inquiries, investigations, or rulemaking proceedings, or other similar proceedings where the commission has an electronic service list on file.

14.14(5) *Changes to service list.* Filers wishing to change information on the service list may contact the commission's customer service bureau. Other changes to the service list, such as a withdrawal of appearance or substitution of counsel, may be requested by means of an appropriate filing.

These rules are intended to implement Iowa Code sections 17A.4 and 476.2.

ARC 8103C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to crossing of railroad rights-of-way and providing an opportunity for public comment

The Iowa Utilities Commission hereby proposes to rescind Chapter 42, "Crossing of Railroad Rights-of-Way," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 476.1, 476.1A and 476.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.1 to 476.1B and 476.27.

Purpose and Summary

The purpose of this proposed chapter is to execute Iowa Code section 476.27 by providing backstop terms and conditions for crossing railroad rights-of-way by public utilities.

Prior to submission of the Notice of Intended Action, the Commission held a technical conference with stakeholders, which included a discussion regarding the proposed Chapter 42. The technical conference was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Communications Alliance (ICA); Interstate Power and Light Company; MidAmerican Energy Company (MidAmerican); the Iowa Association of Electric Cooperatives (IAEC); and the Iowa Farm Bureau Federation. The Commission also accepted written comments, which were filed by OCA, IAEC, MidAmerican, and ICA.

Based on the written and oral comments received, the Commission modified Chapter 42 to produce the version of the chapter in this Notice.

The Commission issued an order on June 10, 2024, commencing rulemaking. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0042.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on March 20, 2024. A public hearing was held on the following date(s):

- April 24, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on August 5, 2024. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

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

July 30, 2024 9 to 10 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

August 6, 2024 9 to 10 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42
CROSSING OF RAILROAD RIGHTS-OF-WAY

199—42.1(476) Definitions. The following words and terms, when used in these rules, have the meanings set forth in Iowa Code section 476.27: "crossing," "direct expenses," "electric transmission owner," "facility," "public utility," "railroad" or "railroad corporation," "railroad right-of-way," and "special circumstances."

In addition, as used in this chapter, the following definitions apply:

"AREMA Manual" means the American Railway Engineering and Maintenance-of-Way Association Manual for Railway Engineering—2023, which is a source of generally accepted engineering practices for the railway industry.

"CFR" means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of May 20, 2024, unless a separate effective date is identified in a specific rule.

"Commission" means the Iowa utilities commission.

"Complainant" means a person who complains to the commission by written complaint regarding any of the issues identified in Iowa Code section 476.27(2) or these rules.

"Petitioner" means a person who files a written petition with the commission seeking a determination of special circumstances pursuant to Iowa Code section 476.27(4).

"Respondent" means a person against whom a complaint or petition is filed.

"Small utility" means a public utility and all affiliates of the public utility that collectively serve fewer than 20,000 customers. For purposes of this definition, a "customer" means the party responsible for payment of the utility services. When the specification exhibit is filed with the railroad, the small utility will certify on the specification exhibit that it meets the definition of a small utility as contained in this rule. The specification exhibit will also state that at such time that the small utility no longer meets the small utility definition, it will have an affirmative duty to so notify the railroad.

199—42.2(476) Applicability and purpose. These rules provide terms and conditions for the crossing of railroad rights-of-way by public utilities. However, these rules shall not prevent a railroad and public utility from negotiating other terms and conditions applicable to a crossing or agreeing to a different dispute resolution mechanism than that provided for in Iowa Code section 476.27 and these rules. These rules do not apply to longitudinal occupancy of a railroad right-of-way, but only to the crossing of a railroad right-of-way.

199—42.3(476) General notice and specification exhibit requirements and payment of fee.

42.3(1) *Notice and exhibit.* Any time a public utility intends to construct a crossing across a railroad right-of-way, the utility shall submit to the railroad a notification of intent to construct, along with a specification exhibit that shows the location of the crossing and the railroad's property, tracks, and wires that the public utility's facilities will cross. The notice and exhibit shall be submitted to the railroad by certified mail, return receipt requested. The one-time standard crossing fee of $750, unless otherwise agreed to by the railroad and public utility, shall accompany the notice and exhibit. The public utility shall use its best efforts to submit the specification exhibit on a form provided or approved by the railroad. The specification exhibit constitutes the public utility's warranty that the public utility facilities that are the subject of the exhibit will be constructed and installed as shown on the exhibit. Railroad Crossing Specification Exhibit forms are available on the commission's website, iuc.iowa.gov.

42.3(2) *Exhibit—overhead wireline crossings.* For overhead wireline crossings, the specification exhibit shall contain, at a minimum, the location of the poles supporting the crossing span and adjoining spans on each side of the crossing span on the proposed facilities; the number, kind, and size of wires; and the clearance between the facilities and any existing railroad tracks, wires, or fiber-optic lines.

42.3(3) *Exhibit—underground crossings.* For underground crossings, the specification exhibit shall contain, at a minimum, the number, kind, and size of wires, pipes, and conduit and casing to be used; the commodity conveyed; and the depth to which the public utility facilities will be placed below the base of the rail track and at other locations on the right-of-way. Multiple wires to be contained within a single conduit may be combined on a single exhibit and notice of intent to construct. Both cased and uncased natural gas pipeline crossings shall be provided for on the specification exhibit form or forms.

42.3(4) *Authorization to commence construction.* After 35 days from the mailing of the notice, specification exhibit, and fee, the public utility, absent a claim of special circumstances or objection from the railroad that the information contained in the specification exhibit is inadequate or incomplete, shall be deemed to have authorization to commence construction of the facilities that are the subject of the specification exhibit. In the event the public utility does not commence construction within 120 days from the mailing of the notice or any changes to the specification exhibit, whichever is later, the notice shall expire and the fee may be retained by the railroad. If the public utility subsequently desires to proceed with construction of the facilities subject to the notice, the public utility must again comply with the notice, specification exhibit, and fee requirements of these rules.

42.3(5) *Crossing notice and payment of flagging costs.* In addition to any other required notice, a public utility, except for emergency repair or maintenance, shall provide the railroad written notice at least ten days prior to commencing any construction, maintenance, or repair of facilities within the railroad's right-of-way. Such notice is to enable the railroad to make any appropriate flagging arrangements. The public utility shall reimburse the railroad for actual flagging expenses within 30 days of receipt of a bill for flagging services.

42.3(6) *Securing damages—special circumstances.* Pending a commission resolution of a claim of special circumstances raised in a petition filed by the railroad pursuant to Iowa Code section 476.27(4) and subrule 42.18(2), a public utility may, upon compliance with these rules and securing the payment of an amount sufficient for the removal of any facilities constructed by the public utility in a manner approved by the commission, proceed with construction unless the commission intervenes to prevent construction pursuant to Iowa Code section 476.27(6).

42.3(7) *Inductive interference study.* If the railroad reasonably determines through its initial review of the specification exhibit and engineering analysis that a proposed public utility facility has a material possibility of posing an induction problem with railroad property, the public utility, if it wishes to proceed with the facility, shall cause a formal inductive interference study to be performed by a qualified engineer approved by the railroad. The public utility shall make and pay for any modifications to the proposed facility, or to the railroad's property, that are necessary to ensure safe and reliable operations of the railroad's property that are recommended by the qualified engineer. No public utility facility that has undergone an inductive interference study pursuant to this subrule shall be energized until the railroad has had an opportunity to conduct any appropriate tests to ensure that, after the facility is energized, there will not be any interference with the operation of the railroad's property. Any appropriate tests shall

be conducted by the railroad within 30 days after receipt of a notice from the public utility that the facility is ready to be energized.

199—42.4(476) Emergency notice and repairs.

42.4(1) *Notice.* In the event a public utility or railroad needs to perform emergency or nonroutine maintenance or repair within a railroad right-of-way and the maintenance or repair may affect the operations of the other entity, immediate notification of the maintenance or repair being performed shall be given.

42.4(2) *Notification plan filing.* Each railroad and public utility with a facility crossing railroad right-of-way shall establish, and file with the commission, a mechanism or plan for receiving emergency notifications 24 hours per day, seven days per week.

42.4(3) *Scope of emergency work and reimbursement of expenses.* Unless permission from the affected railroad or public utility has been received, the railroad and public utility may only perform maintenance or repair work of their own respective property. If the emergency maintenance or repair performed by the railroad or public utility causes reasonable expenses to be incurred by the other entity, those reasonable expenses shall be reimbursed.

199—42.5(476) Relocation of public utility facilities.

42.5(1) *Standard for relocation.* The railroad may require that the public utility, at the public utility's expense, relocate facilities on railroad right-of-way whenever such relocation is necessary to accommodate railroad operations. The decision that relocation is required is made solely by the railroad, although the railroad may not act arbitrarily or unreasonably. The public utility shall not have to pay a standard crossing fee for such relocations.

42.5(2) *Completion of relocation.* In the event relocation of facilities is required, the relocation shall be to a location mutually agreed upon by the railroad and utility, within the railroad right-of-way. The relocation shall be completed within a reasonable period of time.

42.5(3) *Statement of reasons.* Upon the request of the public utility, the railroad shall provide within 15 days a statement or other supporting documentation indicating the operational reasons for requiring relocation of facilities.

199—42.6(476) Engineering standards for electric and communications lines. These engineering standards apply to crossings that do not involve special circumstances such that additional or more stringent engineering standards may be warranted. The determination of such additional or more stringent standards will be determined on a case-by-case basis, according to the procedures in rule 199—42.18(17A,476), depending on the facts and circumstances associated with the particular crossing.

42.6(1) *General.*

a. Except as provided for in this chapter, electric and communications lines crossing railroads shall be constructed in accordance with 199—Chapter 25, the Iowa electrical safety code.

b. Crossings should be made as near as possible at an angle of 90 degrees to the railroad tracks, but in no event shall any crossing be at less than a 60-degree angle to the railroad track.

c. Aboveground facilities at road or pedestrian crossings shall be located or constructed in a manner that minimizes interference with lines of sight for observing oncoming trains.

42.6(2) *Additional requirements for overhead crossings.*

a. In determining the line height needed to meet the clearance requirements of the Iowa electrical safety code, the height of a rail car shall be assumed to be 23 feet.

b. Electric and communications lines shall be installed with at least four feet of clearance above overhead railroad signal and communications lines.

c. The perpendicular distance of poles from the centerline of the tracks shall not be less than the largest of the following:

(1) Unguyed poles shall be located a minimum distance equal to the height of the pole above the ground line plus ten feet. If guys are installed, they shall be placed in a manner that would prevent the pole from leaning or falling in the direction of the tracks.

(2) Fifty feet near straight tracks, except for industry track where ten feet is permitted. If the pole is located adjacent to a segment of curved track, the clearance shall be increased by 1.5 inches per degree of track curvature.

(3) Towers for electric lines capable of operating at 34,500 volts or more shall not be located on railroad right-of-way.

d. Poles shall be located a minimum distance from overhead railroad signal or communications lines equal to the height of the pole above ground line, or poles must be guyed at a right angle away from such lines.

e. Crossings shall not be installed under or within 500 feet of a railroad bridge, or 300 feet from the centerline of a culvert or switch area.

42.6(3) *Additional requirements for underground crossings.*

a. The minimum depth below the base of the rail shall be 4.5 feet except for fiber-optic cables, which shall be 5.0 feet.

b. The minimum depth at other locations on the right-of-way shall be:

(1) 5.0 feet for fiber-optic cables;

(2) 4.0 feet for conductors operating at more than 750 volts;

(3) 3.0 feet for all other lines.

c. Crossings shall not be installed within 50 feet of the end of a railroad bridge, the centerline of a culvert, or a switch area.

d. Casings must extend at least 30 feet from the centerline of the nearest track, measured at a right angle, except that casings for electrical conductors operating at more than 750 volts shall extend the full width of the right-of-way. At burial depths of less than 15 feet below the track, the casing material shall be steel or rigid metal conduit. At depths of 15 feet or more, polyvinyl chloride (PVC) casing pipe may be used.

e. Except for the track and ballast area, warning tape shall be installed one foot below ground level over conductors operating at more than 750 volts, except that tape is not required for lines installed using horizontal directional drilling.

f. Bored crossings shall not be installed using water jetting or other methods that might leave cavities beneath a railroad embankment. Horizontal directional drilling techniques that use drilling mud are permitted. Pits for boring or drilling crossings shall be beyond the limits of the railroad embankment.

g. Unless otherwise authorized by the railroad, a railroad representative must be present during installation of buried crossings if there are underground railroad signal lines in the vicinity of the crossing.

199—42.7(476) Engineering standards for pipelines. These engineering standards apply to crossings that do not involve special circumstances such that additional or more stringent engineering standards may be warranted. The determination of such additional or more stringent standards will be determined on a case-by-case basis, according to the procedures in rule 199—42.18(17A,476), depending on the facts and circumstances associated with the particular crossing.

42.7(1) *General.*

a. Except as provided for in this chapter, pipelines crossing railroads shall be constructed in accordance with Chapter 1, Part 5, "Utilities," of the AREMA Manual.

b. For pipelines subject to 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," or 49 CFR Part 195, "Transportation of Hazardous Liquids by Pipeline," the appropriate federal standard shall control for pipeline marker signs, valves, corrosion control, welding and weld testing, and pressure testing. The design stress level in such pipelines shall not exceed that permitted by the appropriate federal standard.

c. Polyethylene (PE) pipe may be used as carrier pipe for natural gas pipelines. PE and PVC pipe may be used as carrier pipe for water and wastewater. Such pipe shall be manufactured of materials approved for its intended use by an appropriate standards organization.

d. Slip jointed carrier pipe may be used only for encased water or wastewater pipelines, and the ends of such casings shall be oriented such that drainage from any internal leakage will not endanger the railroad embankment.

e. Casings of material other than steel may be used with railroad company approval.

f. Cathodic protection test boxes located on a railroad right-of-way shall be attached to casing vents or installed flush with the ground surface.

42.7(2) *Installation methods.*

a. Pipe shall be installed using boring, drilling, or jacking methods. Open cut crossings are permitted only with the specific authorization of the railroad company.

b. Pits for boring or jacking shall not disturb the railroad embankment and shall be located at least 30 feet from the track centerline where practical. Pits shall be of the minimum size necessary.

c. Bored crossings shall not be installed using water jetting or other drilling methods that might leave cavities beneath a railroad embankment. Horizontal directional drilling techniques that use drilling mud are permitted.

d. Pipe or casing shall be installed with at least one foot of separation from any other pipe or wire in the right-of-way.

e. When boring for pipe greater than 20 inches in diameter is proposed, and the pipe would be installed less than ten feet below the base of the rail, if the railroad has knowledge of soil conditions in the vicinity that could lead to deterioration of track support if the soil is disturbed, the railroad company may require that a geotechnical study be performed by the public utility to determine whether the proposed crossing site is undesirable or requires special construction methods or monitoring.

f. For unusually large pipeline crossings that do not involve special circumstances, or for crossings where geotechnical study has identified potentially destabilizing soil conditions, the railroad company may require that a railroad representative be present during installation and may also require the presence of a survey crew to monitor the tracks for any change in alignment.

199—42.8(476) Liability. Each railroad and public utility shall maintain and repair its respective property within the railroad right-of-way, and the railroad and public utility shall bear responsibility for each person's own acts and omissions, except the public utility shall be responsible for any bodily injury or property damage that typically would be covered under a standard railroad protective liability insurance policy.

199—42.9(476) Insurance.

42.9(1) Unless otherwise agreed upon by the railroad and public utility, the public utility shall maintain, or cause to be maintained, the following minimum insurance coverage with respect to each railroad crossing:

a. General public liability insurance with limits of not less than $500,000 for injury or death of a single person, or not less than $1 million for any one accident, and not less than $250,000 per accident for property damage. The exclusion or limitations for railroads shall be removed.

b. Comprehensive automobile liability insurance with limits of not less than $500,000 for injury or death of a single person, or not less than $1 million for any one accident, and not less than $250,000 for property damage.

c. Excess liability coverage with limits of not less than $5 million, except that the required limits shall be $1 million for small utilities for railroad crossings by facilities other than gas or hazardous materials pipelines.

d. Railroad protective liability insurance with a combined single limit of $4 million per occurrence and $6 million aggregate, except that the required limits shall be a combined single limit of $2 million per occurrence and $4 million aggregate for small utilities for railroad crossings by facilities other than gas or hazardous materials pipelines. Such coverage shall be required only during the period of construction, repair, or replacement of the facilities and may be provided by a blanket railroad protective liability insurance policy provided that the coverage, including the coverage limits, applies separately to each individual crossing on each individual railroad.

42.9(2) The coverage in paragraphs 42.9(1)*"a"* through *"d"* must be by blanket insurance policies covering other property or risks, or self-insurance. In the event the public utility desires to self-insure, it must maintain a minimum long-term rating of A- and net assets of not less than $100 million, unless the railroad agrees to different amounts. If the public utility's long-term rating is lowered below an A- rating, the public utility will provide commercial insurance as required in this rule and will notify the railroad that its long-term rating was lowered below A-.

42.9(3) The coverage in paragraphs 42.9(1)*"a"* through *"d"* must be in place prior to the commencement by the public utility of any work within the railroad's right-of-way in order to secure payment for any damages for which the public utility bears responsibility.

42.9(4) Before commencing construction of any facility, the public utility must provide to the railroad proof that the public utility has procured the insurance coverage as required in this rule.

199—42.10(476) Removal of equipment. Upon completion of any facility, the public utility shall remove, or cause to be removed, all tools, equipment, or other property used in the construction and, if railroad property was moved or disturbed, restore that property to the same condition it was in prior to being moved or disturbed.

199—42.11(476) Assignment. The public utility may assign or otherwise transfer any rights to cross a railroad right-of-way to any financially responsible entity controlled by, controlling, or under common control with the public utility or to any entity into or with which the public utility is merged or consolidated or that acquires ownership or control of all or substantially all of the transmission assets of the public utility. Notice of the assignment or transfer shall be given to the railroad within 30 days. No other transfer or assignment may take place without the written permission of the railroad, which permission shall not be unreasonably withheld.

199—42.12(476) Prohibition against mechanic's liens. The public utility shall not create, permit, or suffer any mechanic's lien or other lien of any kind or any nature to be created or enforced against the railroad's property for any work performed by the public utility in connection with its facilities that are located in the railroad's right-of-way. The railroad shall not create, permit, or suffer any mechanic's lien or other lien of any kind or any nature to be created or enforced against the public utility's property located in the railroad's right-of-way for any work performed by the railroad in connection with the railroad's facilities.

199—42.13(476) Taxes. The public utility shall promptly pay or discharge all taxes and charges levied upon its facilities located in the railroad's right-of-way. Where any such tax or charge may not be separately made or assessed to the public utility, but is included in the taxes or charges assessed to the railroad, the public utility shall pay to the railroad an equitable portion of such taxes determined by the value of the public utility's facilities located on the railroad's right-of-way as compared with the entire value of the railroad property.

199—42.14(476) Protection of signal systems. Prior to penetrating the surface of any railroad right-of-way, the public utility shall contact the railroad to determine whether any of the railroad's signal systems are located in the area. If signal systems are located in the area, the public utility, at its expense, shall arrange for a cable locator and make arrangements for relocation or other protection of the signal system. The public utility shall also contact Iowa One Call for locating other underground facilities and shall comply with all other applicable statutes, regulations, and rules pertaining to such underground facilities.

199—42.15(476) Safety regulations. The public utility shall ensure compliance with all applicable local, state, and federal safety rules and regulations during the time any work is being performed on a facility within the railroad's right-of-way. Any personal injury arising during work being performed on a facility shall be promptly reported by the public utility to the railroad.

199—42.16(476) Recording. The public utility, at its own expense, may record a memorandum of its rights pursuant to Iowa Code section 476.27 and these rules. A legal description of the crossing that has been approved by both the railroad and public utility shall be attached to the memorandum. Upon termination of the public utility's rights, the public utility shall file an appropriate document to evidence such termination.

199—42.17(17A,476) Complaints and petitions for relief—general information. These rules are promulgated under Iowa Code chapter 17A and section 476.27 as guides for procedures when railroads or public utilities file with the commission complaints regarding crossings pursuant to Iowa Code section 476.27(2)*"a"*(9) or petitions for relief pursuant to Iowa Code section 476.27(4). The purpose of these rules is to facilitate the transaction of business before the commission and to promote the just resolution of controversies. Any procedural rules in 199—Chapter 7 that are in conflict with these rules do not apply to contested cases under this chapter.

199—42.18(17A,476) Complaints and petitions for relief.

42.18(1) *Complaints.* A railroad or public utility that has a complaint regarding any of the issues identified in Iowa Code section 476.27(2) that cannot be resolved without intervention by the commission may file a complaint with the commission.

42.18(2) *Petitions for relief.* A railroad or public utility that believes special circumstances exist for a particular crossing pursuant to Iowa Code section 476.27(4) may file a petition for relief with the commission if the railroad and the public utility have been unable to resolve their differences without intervention by the commission.

42.18(3) *Information to be filed.* The written complaint or petition should include the following information:

a. The name, address, telephone number, and contact person for the complainant or petitioner and the complainant's or petitioner's attorney, if any;

b. The basis for the commission's jurisdiction over the matter;

c. A statement of the complainant's or petitioner's position and a detailed discussion of the facts that support the complainant's or petitioner's position, including a description of the issues involved, why special circumstances exist for the particular crossing, the resolution or relief requested, and the facts supporting the resolution or relief requested;

d. The particular provisions of the statutes and rules involved;

e. A description of the attempts made to informally resolve the issues involved in the complaint or petition;

f. All documentation relied on to support the facts alleged in the complaint or petition and the requested resolution or relief; and

g. The name, address, telephone number, contact person and attorney, if any, for the other railroad or public utility involved and a statement that the complaint or petition was served on the other railroad or public utility involved and the consumer advocate, the method of service, and the date served.

42.18(4) *Electronic filing required.* Complaints and petitions for relief shall be filed in the commission's electronic filing system as described in 199—Chapter 14.

42.18(5) *Expedited timeline.* The commission recognizes that the parties will ordinarily require a swift decision. Therefore, the shortened time limits applicable to expedited proceedings in 199—Chapter 7 shall apply to contested cases brought under this chapter.

These rules are intended to implement Iowa Code sections 476.1, 476.1A, 476.1B, and 476.27.

ARC 8130C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to administration and providing an opportunity for public comment

The Director of the Workforce Development Department hereby proposes to rescind Chapter 1, "Administration," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

Purpose and Summary

Chapter 1 is the foundational Iowa Administrative Code chapter for the Department. It provides the mission and the overall general organizational structure for the organization.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text is proposed to be removed from the chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 29, 2024. A public hearing was held on the following date(s):

- June 18, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: rebecca.stonawski@iwd.iowa.gov

Public Hearing

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

July 30, 2024 9 to 9:30 a.m.	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa
July 30, 2024 1 to 1:30 p.m.	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.414.6800 or via email at april.stotz@iowa.gov at least 48 hours prior to the hearing date.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 871—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATION

871—1.1(84A) Mission and overall organization.

1.1(1) *Mission.* We power Iowa's possibilities by connecting workers to opportunities and employers to workforce solutions.

1.1(2) *Vision.* To create, enable and sustain the most future ready workforce in the nation.

1.1(3) *Overall organization.* The chief executive officer of the department is the director of the department of workforce development who shall be appointed by the governor with the approval of two-thirds of the members of the senate and is responsible directly to the governor.

This rule is intended to implement Iowa Code chapter 84A.

ARC 8131C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to customer and administrative services division and providing an opportunity for public comment

The Director of the Workforce Development Department hereby proposes to rescind Chapter 2, "Customer and Administrative Services Division," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

Purpose and Summary

Chapter 2 originally provided the mission and organizational structure for the Customer Services Bureau; the Financial Management Bureau; the Business Management Bureau; the Special Projects, Premises, and Forms Management Bureau; the Budget and Reporting Bureau; the Employee Services Bureau; and Planning and Information Services. Because this organizational structure has significantly changed and needs to be updated, Chapter 2 is proposed to be rescinded.

In addition, as part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. Rescinding this chapter removes the duplicative and restrictive language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 29, 2024. A public hearing was held on the following date(s):

- June 18, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: rebecca.stonawski@iwd.iowa.gov

Public Hearing

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

July 30, 2024 9:30 to 10 a.m.	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa
July 30, 2024 1:30 to 2 p.m.	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.414.6800 or via email at april.stotz@iowa.gov at least 48 hours prior to the hearing date.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **871—Chapter 2**.

ARC 8132C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to new Iowan centers and providing an opportunity for public comment

The Director of the Workforce Development Department hereby proposes to rescind Chapter 14, "New Iowan Centers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and chapter 84A as amended by 2023 Iowa Acts, Senate File 514.

Purpose and Summary

Chapter 14 was originally created to provide administrative rules for New Iowan Centers. However, this program no longer exists. This rulemaking proposes to remove Chapter 14 from the Department's rules.

In addition, as part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. Rescinding this chapter removes the duplicative and restrictive language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on May 29, 2024. A public hearing was held on the following date(s):

- June 18, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on July 30, 2024. Comments should be directed to:

Rebecca Stonawski
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: rebecca.stonawski@iwd.iowa.gov

Public Hearing

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

July 30, 2024 10 to 10:30 a.m.	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa
July 30, 2024 2 to 2:30 p.m.	Capitol View Room 1000 East Grand Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.414.6800 or via email at april.stotz@iowa.gov at least 48 hours prior to the hearing date.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **871—Chapter 14**.

ARC 8112C

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency After Notice

Rulemaking related to posting, inspections, citations and proposed penalties

The Labor Commissioner hereby amends Chapter 3, "Posting, Inspections, Citations and Proposed Penalties," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 29 CFR 1903.15.

Purpose and Summary

This rulemaking adopts the promulgation of a new Chapter 3. This rulemaking implements the goals and directives of Executive Order 10 (January 10, 2023). This rulemaking also adopts mandatory, annual cost-of-living adjustments in order to align Iowa's penalties for occupational safety and health citations with the corresponding federal penalties.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 15, 2024, as **ARC 7940C**. A public hearing was held on the following date(s):

- June 4, 2024
- June 5, 2024

No one attended the public hearings.

Written comments were received in response to the Notice. In response, the agency restored certain text that had been removed from rules 875—3.3(88), 875—3.9(88), and 875—3.10(88) and subrules 3.4(2) and 3.6(2). In subrule 3.6(3), "may" replaces "shall," consistent with 29 CFR 1903.8.

A Regulatory Analysis related to this rulemaking was published in the Iowa Administrative Bulletin on April 3, 2024, and a public hearing on the Regulatory Analysis was held on April 23, 2024. The Division received no comments.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Commissioner finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on June 19, 2024, because this rulemaking confers a benefit on employees by enhancing employee work safety and confers a benefit on employers by meeting a deadline, which is a necessary condition of continuing to administer work safety law by a state program.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on June 19, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking became effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
POSTING, INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

875—3.1(88) Posting of notice; availability of the Act, regulations and applicable standards.

3.1(1) Each employer shall post and keep posted a notice or notices informing employees of the protections and obligations provided for in the Act, and that for assistance and information, including copies of the Act and of specific safety and health standards, employees should contact the employer or the department of inspections, appeals, and licensing, division of labor services. The notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that such notices are not altered, defaced or covered by other materials. The notice or notices will be furnished by the division of labor services.

Reproductions or facsimiles of the state poster shall constitute compliance with the posting requirements of Iowa Code section 88.6(3)*"a"* where such reproductions or facsimiles are at least 8½ inches by 14 inches, and the printing size is at least ten point. Whenever the size of the poster increases, the size of the print shall also increase accordingly. The caption or heading on the poster shall be in large type, generally not less than 36 point.

3.1(2) "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. Where distinctly separate activities are performed at a single physical location (such as contract construction activities from the same physical location as a lumber yard), each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment. Where employers are engaged in activities that are physically dispersed, such as agriculture, construction, transportation, communications and electric, gas and sanitary services, the notice or notices required by this rule shall be posted at the location to which employees report each day. Where employees do not usually work at, or report to, a single establishment, such notice or notices shall be posted at the location from which the employees operate to carry out their activities.

3.1(3) Copies of the Act, all regulations published and all applicable safety and health rules are available from the division of labor services. If an employer has obtained copies of these materials from

the division of labor services or the U.S. Department of Labor, the employer shall make them available upon request to any employee or authorized employee representative for review in the establishment where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or authorized employee representative and the employer.

3.1(4) Any employer failing to comply with the provisions of this rule shall be subject to citation and penalty in accordance with the provisions of Iowa Code section 88.14.

This rule is intended to implement Iowa Code section 88.6(3)*"a."*

875—3.2(88) Objection to inspection.

3.2(1) Upon a refusal to permit a compliance safety and health officer, in the exercise of official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records or to question any employer, owner, operator, agent or employee, or to permit a representative of employees to accompany the compliance safety and health officer during the physical inspection of any workplace, the compliance safety and health officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised. The compliance safety and health officer shall endeavor to ascertain the reason for such refusal and shall immediately report the refusal and the reason therefor to the labor commissioner or the commissioner's designee. The labor commissioner shall promptly take appropriate action, including compulsory process, if necessary.

3.2(2) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the labor commissioner or a designee, circumstances exist that make such preinspection process desirable or necessary.

3.2(3) For the purposes of this rule, the term "compulsory process" shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this rule.

This rule is intended to implement Iowa Code section 88.6(1).

875—3.3(88) Entry not a waiver. Any permission to enter, inspect, review records or question any person shall not imply or be conditioned upon a waiver of any cause of action, citation or penalty under the Act. Compliance safety and health officers are not authorized to grant any such waiver.

This rule is intended to implement Iowa Code section 88.6(1).

875—3.4(88) Advance notice of inspections.

3.4(1) Advance notice of inspections may not be given, except in the following situations:

a. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

b. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

c. In circumstances where necessary to ensure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

d. In other circumstances where the labor commissioner or the commissioner's designee determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

3.4(2) In situations described in subrule 3.4(1), advance notice of inspections may be given only if authorized by the labor commissioner or the commissioner's designee, except that in cases of apparent imminent danger, advance notice may be given by the compliance safety and health officer without such authorization if the labor commissioner or the commissioner's designee is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of the representative is known to the employer. An employer who fails to comply with the obligation under this rule promptly to inform the authorized representative of employees of the inspection may be subject to citation and penalty under Iowa Code section 88.14(3). Advance notice in any of the situations described in subrule 3.4(1) shall not

be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.14(6).

875—3.5(88) Conduct of inspections.

3.5(1) At the beginning of an inspection, compliance safety and health officers shall present their credentials to the owner, operator or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records the compliance safety and health officers wish to review. However, such designation of records shall not preclude access to additional records.

3.5(2) Compliance safety and health officers shall have the authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection; employ other reasonable investigative techniques; and question privately any employer, owner, operator, agent or employee of the establishment. As used herein, the term "employ other reasonable investigative techniques" includes but is not limited to the use of cameras, audio and videotaping equipment, and devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

3.5(3) Compliance safety and health officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.

3.5(4) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

3.5(5) At the conclusion of the inspection, the compliance safety and health officer shall confer with the employer or representative and informally advise the employer or representative of any apparent safety or health violations disclosed by the inspection. During the conference, the employer shall be afforded an opportunity to bring to the attention of the compliance safety and health officer any pertinent information regarding conditions in the workplace.

This rule is intended to implement Iowa Code section 88.6(1).

875—3.6(88) Representatives of employers and employees.

3.6(1) Compliance safety and health officers shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by employees shall be given an opportunity to accompany the compliance safety and health officer during the physical inspection of any workplace for the purpose of aiding the inspection. A compliance safety and health officer may permit additional employer representatives and additional representatives authorized by employees to accompany the compliance safety and health officer where the compliance safety and health officer determines that the additional representatives will further aid the inspection. A different employer and employee representative may accompany the compliance safety and health officer during each different phase of an inspection if this will not interfere with the conduct of the inspection.

3.6(2) Compliance safety and health officers shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this rule. If there is no authorized representative of employees, or if the compliance safety and health officer is unable to determine with reasonable certainty who is the representative, the compliance safety and health officer should consult with a reasonable number of employees concerning matters of safety and health in the workplace.

3.6(3) A representative authorized by employees may be an employee of the employer. However, if in the judgment of the compliance safety and health officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, the third party may accompany the compliance safety and health officer during the inspection.

3.6(4) Compliance safety and health officers are authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly inspection.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.6(4).

875—3.7(88) Complaints by employees.

3.7(1) Any employee or representative of employees who believes that a violation of the Act exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the commissioner or a designee. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or agent by the commissioner's designee no later than at the time of inspection, except that, upon the request of the person giving the notice, the identity and the identities of individual employees referred to therein shall not appear in the copy or on any record published, released, or made available by the division of labor services.

3.7(2) If, upon receipt of notification, the commissioner or a designee determines that the complaint meets the requirements set forth in subrule 3.7(1), and that there are reasonable grounds to believe that the alleged violation exists, an inspection shall be made as soon as practicable to determine if the alleged violation exists. Inspections under this rule shall not be limited to matters referred to in the complaint.

3.7(3) During any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the compliance safety and health officer of any violation of the Act that the employee or representative has reason to believe exists in the workplace.

875—3.8(88) Trade or governmental secrets.

3.8(1) At the commencement of an inspection, the employer may identify areas in the establishment that contain or that might reveal trade or governmental secrets. If the compliance safety and health officer has no clear reason to question such identification, information obtained in such areas shall not be disclosed except in accordance with the provisions of Iowa Code section 88.12.

3.8(2) Upon the request of an employer, any authorized representative of employees in an area containing trade or governmental secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is no representative or employee, the compliance safety and health officer shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.12.

875—3.9(88) Imminent danger. Whenever and as soon as a compliance safety and health officer concludes on the basis of an inspection that conditions or practices exist in any place of employment that could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act, the affected employees and employers shall be notified as provided in Iowa Code section 88.11(3). Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger, even though, after being informed of the danger by the compliance safety and health officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.

875—3.10(88) Consultation with employees. Compliance safety and health officers may consult with employees concerning matters of occupational safety and health to the extent that the compliance safety and health officers deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Act that the employee has reason to believe exists in the workplace to the attention of the compliance safety and health officer.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.6(4).

875—3.11(88) Citations.

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

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

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

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

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

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

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

3.11(2) Upon receipt of any citation under the Act, the employer shall immediately post the citation or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided in this rule. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, the citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employers are engaged in activities that are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced or covered by other material. Notices of de minimis violations need not be posted.

3.11(3) Each citation or a copy thereof shall remain posted until the violation has been abated, or for three working days, whichever is later. The filing by the employer of a notice of intention to contest shall not affect the posting responsibility under this rule unless and until the employment appeal board issues a final order vacating the citation.

3.11(4) An employer to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the employment appeal board and the notice may explain the reasons for the contest. The employer may also indicate that specified steps have been taken to abate the violation.

3.11(5) Any employer failing to comply with the provisions of subrules 3.11(2) and 3.11(3) shall be subject to citation and penalty in accordance with the provisions of Iowa Code section 88.14.

3.11(6) Any employer to whom a citation and notification of penalty have been issued may, under Iowa Code section 88.8, notify the commissioner of the employer's intention to contest the citation or notification of penalty. The notice of contest shall be in writing. The notice of contest shall be received by the division of labor services or postmarked no later than 15 working days after the receipt by the employer of the citation and notification of penalty. The notice of contest may be provided to the division of labor services by mail, personal delivery or facsimile transmission.

This rule is intended to implement Iowa Code chapter 88.

875—3.12(88) Informal conferences. At the request of an affected employer, employee, or representative of employees, the labor commissioner or the commissioner's designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at the conference shall be subject to the rules of procedure prescribed by the employment appeal board. If the conference is requested by the employer, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the labor commissioner or the commissioner's designee. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the labor commissioner or the commissioner's

designee. Any party may be represented by counsel at the conference. No conference or request for a conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest.

This rule is intended to implement Iowa Code sections 17A.3(1)*"b"* and 17A.10.

875—3.13(88) Petitions for modification of abatement date.

3.13(1) An employer may file a petition for modification of abatement date when the employer has made a good faith effort to comply with the abatement requirements of a citation, but such abatement has not been completed because of factors beyond its reasonable control.

3.13(2) A petition for modification of abatement date shall be in writing and shall include the following information:

a. All steps taken by the employer, and the dates of the action, in an effort to achieve compliance during the prescribed abatement period.

b. The specific additional abatement time necessary in order to achieve compliance.

c. The reasons the additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or why necessary construction or alteration of facilities cannot be completed by the original abatement date.

d. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

e. A certification that a copy of the petition and notice informing affected employees of their rights to party status has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with paragraph 3.13(3)*"a"* and a certification of the date upon which the posting and service was made. A notice in the following form shall be deemed to comply with this paragraph:

(Name of employer)

Your employer has been cited by the commissioner of labor for violation of the Iowa Occupational Safety and Health Act and has requested additional time to correct one or more of the violations. Affected employees are entitled to participate as parties under terms and conditions established by the Iowa employment appeal board in its rules of procedure. Affected employees or their representatives desiring to participate must file a written objection to the employer's petition with the commissioner of labor. Failure to file the objection within ten working days of the first posting of the accompanying petition and this notice shall constitute a waiver of any further right to object to the petition or to participate in any proceedings related thereto. Objections shall be sent to the commissioner's designee: Iowa OSHA, Division of Labor Services. All papers relevant to this matter may be inspected at: (place reasonably convenient to employees, preferably at or near workplace).

3.13(3) A petition for modification of abatement date shall be filed with the labor commissioner or the commissioner's designee no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

a. A copy of the petition and a notice of employee rights complying with paragraph 3.13(2)*"e"* shall be posted in a conspicuous place where all affected employees will have notice thereof or near the location where the violation occurred. The petition and notice of employee rights shall remain posted for a period of ten working days. Where affected employees are represented by an authorized representative, the representative shall be served with a copy of the petition and notice of employee rights.

b. Affected employees or their representatives may file an objection in writing to a petition with the labor commissioner or the commissioner's designee. Failure to file the objection within ten working days of the date of posting of the petition and notice of employee rights or of service upon an authorized representative shall constitute a waiver of any further right to object to the petition.

c. The labor commissioner or the commissioner's designee shall have the authority to approve any filed petition for modification of abatement date. Uncontested petitions shall become final orders pursuant to Iowa Code section 88.8.

d. The labor commissioner or the commissioner's designee shall not exercise approval power until the expiration of 15 working days from the date the petition and notice of employee rights were posted or served by the employer.

3.13(4) Where any petition is objected to by the labor commissioner or the commissioner's designee or affected employees, the petition, citation, and any objections shall be forwarded to the employment appeal board within 3 working days after the expiration of the 15-day period set out in paragraph 3.13(3)*"d."*

This rule is intended to implement Iowa Code section 88.8.

875—3.14 to **3.18** Reserved.

875—3.19(88) Abatement verification.

3.19(1) *Scope and application.* This rule applies to employers who receive a citation for a violation of the Iowa occupational safety and health Act.

3.19(2) *Definitions.*

"Abatement" means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by OSHA during an inspection.

"Abatement date" means:

1. For an uncontested citation item, the latest of:

- The date in the citation for abatement of the violation;
- The date approved by OSHA or established in litigation as a result of a petition for modification of the abatement date (PMA); or
- The date established in a citation by an informal settlement agreement.

2. For a contested citation item for which the employment appeal board has issued a final order affirming the violation, the latest of:

- The date identified in the final order for abatement;
- The date computed by adding the period allowed in the citation for abatement to the final order date; or
- The date established by a formal settlement agreement.

"Affected employees" means those employees who are exposed to the hazard(s) identified as a violation(s) in a citation.

"Final order date" means:

1. For an uncontested citation item, the fifteenth working day after the employer's receipt of the citation;

2. For a contested citation item:

- The thirtieth day after the date on which a final order was entered by the employment appeal board, or
- The date on which a court issues a decision affirming the violation in a case in which a final order of the employment appeal board has been stayed.

"Movable equipment" means a handheld or nonhandheld machine or device, powered or unpowered, that is used to do work and is moved within or between work sites.

3.19(3) *Abatement certification.*

a. Within ten calendar days after the abatement date, the employer must certify to the division that each cited violation has been abated, except as provided in paragraph 3.19(3)*"b."*

b. The employer is not required to certify abatement if the compliance safety and health officer during the on-site portion of the inspection:

(1) Observes, within 24 hours after a violation is identified, that abatement has occurred; and

(2) Notes in the citation that abatement has occurred.

c. The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required in subrule 3.19(8), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

3.19(4) *Abatement documentation.* The employer must submit to the division, along with the information on abatement certification required by paragraph 3.19(3)*"c,"* documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the division indicates in the citation that the abatement documentation is required.

3.19(5) *Abatement plans.*

a. The division may require an employer to submit an abatement plan for each cited violation (except an other-than-serious violation) when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.

b. The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

3.19(6) *Progress reports.*

a. An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

(1) That periodic progress reports are required and the citation items for which they are required;

(2) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;

(3) Whether additional progress reports are required; and

(4) The date(s) on which additional progress reports must be submitted.

b. For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

3.19(7) *Employee notification.*

a. The employer must inform affected employees and their representative(s) about abatement activities covered by this rule by posting a copy of each document submitted to the division or a summary of the document near the place where the violation occurred.

b. Where posting does not effectively inform employees and their representatives about abatement activities (for example, for employers who have mobile work operations), the employer shall:

(1) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

(2) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

(3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the division.

c. An employee or an employee representative shall submit a request to examine and copy abatement documents within three working days of receiving notice that the documents have been submitted. The employer shall comply with an employee's or employee representative's request to examine and copy abatement documents within five working days of receiving the request.

d. The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the division and that abatement documents are:

(1) Not altered, defaced, or covered by other material; and

(2) Remain posted for three working days after submission to the division.

3.19(8) *Transmitting abatement documents.*

a. The employer must include, in each submission required by this rule, the following information:

(1) The employer's name and address;

(2) The inspection number to which the submission relates;

(3) The citation and item numbers to which the submission relates;

(4) A statement that the information submitted is accurate; and

(5) The signature of the employer or the employer's authorized representative.

b. The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the division receives the document is the date of submission.

3.19(9) *Movable equipment.*

a. For serious, repeat, and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the work site or between work sites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this paragraph as well as the posting requirement of rule 875—3.11(88).

b. The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued. A sample tag is available at osha.gov as Appendix C to 29 CFR 1903.19.

c. If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:

(1) For handheld equipment, immediately after the employer receives the citation; or

(2) For nonhandheld equipment, prior to moving the equipment within or between work sites.

d. For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 29 CFR 1926.200(h) is deemed by OSHA to meet the requirements of this rule when the information required by paragraph 3.19(9)*"b"* is included on the tag.

e. The employer must ensure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

f. The employer must ensure that the tag or copy of the citation attached to movable equipment remains attached until:

(1) The violation has been abated and all abatement verification documents required by this regulation have been submitted to the division;

(2) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

(3) The appeal board issues a final order vacating the citation.

875—3.20(88) Policy regarding employee rescue activities.

3.20(1) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:

a. The employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or

b. The employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties, and the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

c. The employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; and such employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual. Additionally, the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

3.20(2) For purposes of this policy, the term "imminent danger" means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

875—3.21 Reserved.

875—3.22(88,89B) Additional hazard communication training requirements.

3.22(1) *Training format.* The employer may present the training program to the employee in any format; however, the employer shall preserve a written summary and synopsis of the training, a

recording of an oral presentation, or a video recording of an audio-video presentation of the training relied upon by the employer for compliance with 29 CFR 1910.1200(h), and shall allow employees and their designated representatives access to the written synopsis, recording, or video recording.

3.22(2) *Review by the division.* The training program shall be available for review and approval upon inspection by the division. Upon request by the commissioner, the employer shall make available the written synopsis, recording, or video recording used or prepared by the employer. The commissioner may conduct an inspection to review an actual training program or review the employer's records of a training program.

875—3.23(88) Definitions. The definitions and interpretations contained in Iowa Code section 88.3 shall be applicable to the terms when used in this chapter. As used in this chapter unless the context clearly requires otherwise:

"Act" means the Iowa occupational safety and health Act of 1972, Iowa Code chapter 88.

"Compliance safety and health officer" means a person authorized by the labor commissioner of the department of inspections, appeals, and licensing, division of labor services, to conduct inspections.

"Division" means the Iowa division of labor of the department of inspections, appeals, and licensing.

"Inspection" means any inspection of an employer's factory, plant, establishment, construction site or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a filed complaint, and any follow-up inspection, accident investigation or other inspections conducted under the Act.

"Working days" means Mondays through Fridays but shall not include Saturdays, Sundays or federal or state holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

This rule is intended to implement Iowa Code section 88.6.

These rules are intended to implement Iowa Code chapters 17A and 88.

[Filed Emergency After Notice 6/19/24, effective 6/19/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8113C

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency After Notice

Rulemaking related to recording and reporting occupational injuries and illnesses

The Labor Commissioner hereby rescinds Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 29 CFR 1904.

Purpose and Summary

This rulemaking adopts the promulgation of a new Chapter 4. This rulemaking implements the goals and directives of Executive Order 10 (January 10, 2023). This rulemaking also adopts a federal rule amendment to require establishments with 100 or more employees in certain designated high-hazard industries to electronically submit information from their Occupational Safety and Health Administration injury reporting forms once per year.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 15, 2024, as **ARC 7941C**. A public hearing was held on the following date(s):

- June 4, 2024
- June 5, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Commissioner finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on June 19, 2024, because this rulemaking confers a benefit on employees by enhancing employee work safety and confers a benefit on employers by meeting a deadline, which is a necessary condition of continuing to administer work safety law by a state program.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on June 19, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking became effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

875—4.1(88) Purpose and scope. This chapter applies to public and private employers.

875—4.2(88) First reports of injury. A report to the division of workers' compensation is considered to be a report to the division of labor services. The division of workers' compensation will forward all reports to the division of labor services.

875—4.3(88) Recording and reporting regulations. Except as noted in this rule, the federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 through 6135 (January 19, 2001) are adopted.

4.3(1) The following amendments to 29 CFR 1904.0 through 1904.46 are adopted:

a. 66 Fed. Reg. 52031-52034 (October 12, 2001)
b. 67 Fed. Reg. 44047 (July 1, 2002)
c. 67 Fed. Reg. 77170 (December 17, 2002)
d. 68 Fed. Reg. 38606 (June 30, 2003)
e. 79 Fed. Reg. 56186 (September 18, 2014)
f. 81 Fed. Reg. 29691 (May 12, 2016)
g. 81 Fed. Reg. 31854 (May 20, 2016)
h. 84 Fed. Reg. 405 (January 25, 2019)
i. 84 Fed. Reg. 21457 (May 14, 2019)
j. 85 Fed. Reg. 8731 (February 18, 2020)
k. 88 Fed. Reg. 47254 (July 21, 2023)

4.3(2) In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

a. Completing the incident report form and faxing or emailing the completed form to Iowa OSHA in the department of inspections, appeals, and licensing;
b. Calling 877.242.6742; or
c. Visiting 6200 Park Avenue, Suite 100, Des Moines, Iowa.

These rules are intended to implement Iowa Code chapter 88.

[Filed Emergency After Notice 6/19/24, effective 6/19/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8114C

NURSING BOARD[655]

Adopted and Filed Emergency After Notice

Rulemaking related to certified professional midwives

The Board of Nursing hereby adopts a new Chapter 16, "Certified Professional Midwives," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 148I as amended by 2023 Iowa Acts, House File 265.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 148I as amended by 2023 Iowa Acts, House File 265.

Purpose and Summary

This rulemaking implements 2023 Iowa Acts, House File 265, by creating rules for the licensure and regulation of certified professional midwives (CPMs). The chapter sets out requirements for CPMs to obtain a license in the state of Iowa, including initial licensure, renewal and reactivation.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 15, 2024, as **ARC 7935C**. A public hearing was held on the following date(s):

- June 4, 2024
- June 5, 2024

Comments were received from Sarah Sorvillo (CPM), Bethany Hantz (CPM), Melanie Hexen Retterer (CPM), and Megan Day Suhr (CPM) and the International Cesarean Awareness Network (ICAN) of Central Iowa requesting removal of the list at subrule 16.3(6), which details reasons why a CPM shall consult a licensed physician or nurse midwife. The comments suggested scope of practice is rarely defined in rules because it is ever-changing. CPMs are concerned that if practice standards from the national organization change, it could take a long time to amend the rules in Iowa to reflect changes. It was also suggested to remove the term "high-risk pregnancies" from subrule 16.3(6) since there is no universal definition for this term.

The Board opted to retain the term "high-risk pregnancies" since the same term is used in Iowa Code chapter 148I.

The Board opted to retain the list in subrule 16.3(6), stating the list helps CPMs know when consultation is necessary and helps protect the public. Additionally, the Board felt that the list provides guidelines to cover all individuals in the profession, regardless of the experience level of the licensee.

Comments also were received regarding rule 655—16.5(148I), Testing and drugs, to include the ability to obtain and administer pyridoxine (vitamin B6) intramuscular injection (IM) or intravenous injection (IV) for treatment of hyperemesis, terbutaline for cord prolapse, and nifedipine for eclampsia. Some CPMs serve rural populations with severely limited access to obstetrical care, and during an emergency, such as cord prolapse or eclampsia, transferring to a hospital could be life threatening. The commenter provided that these three medications are a modest request when compared to other states, such as Washington.

The Board opted to include the three requested medications (pyridoxine (vitamin B6) IM or IV for treatment of hyperemesis, terbutaline for cord prolapse, and nifedipine for eclampsia) to the list of approved medications in rule 655—16.5(148I).

Comments also were received regarding rule 655—16.4(148I), Delegation to another CPM. The comments questioned whether these same rules apply to nurse midwives. The comments suggested removing or simplifying the rule.

The Board removed subrule 16.4(2), Delegation to unlicensed assistive personnel (UAP), but retained the language regarding delegation to another CPM.

Comments also were received on the requirement for CPMs to apply for birth certificates. One CPM stated that the client should fill out the paperwork and submit, not the CPM.

The Board kept this requirement in alignment with Iowa Code chapter 148I.

Comments also were received on the licensure process. CPMs were concerned about the requirement to have a license by July 1, 2024, with the rules not yet in effect. Additionally, there was a comment to increase the grace period for renewal from 30 days to 60 days.

The Board kept the grace period at 30 days to align with the requirements of other professionals under the Board.

The following changes from the Notice have been made:

- Subrule 16.4(2) was not adopted, and the rule was restructured accordingly. This follows feedback received by the Board and concerns about allowing delegation of tasks outside of a licensed professional.
- Rule 655—16.5(148I) was revised to include the ability to obtain and administer pyridoxine (vitamin B6) IM or IV for treatment of hyperemesis, terbutaline for cord prolapse, and nifedipine for eclampsia.
- Subrule 16.5(3) was revised to change "CPM" to "licensee" to be consistent with the rest of rule 655—16.5(148I).
- Editorial changes.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Board finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on June 19, 2024, because Iowa Code chapter 148I requires the Board to begin licensing CPMs starting July 1, 2024, and this chapter provides the rules for applying for licensure and licensing CPMs. Additionally, this chapter confers a benefit on the public by providing additional services that CPMs can provide, while ensuring the standards of practice are met to maintain the safety of the public.

Adoption of Rulemaking

This rulemaking was adopted by the Board on June 19, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking became effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new**655—Chapter 16:

CHAPTER 16
CERTIFIED PROFESSIONAL MIDWIVES

655—16.1(148I) Definitions. As used in this chapter, in addition to those listed below, definitions as stated in Iowa Code section 148I.1 apply to this chapter.

"Administer" means the same as defined in Iowa Code section 155A.3(1).

"Consultation" means discussing the aspects of an individual client's circumstance with other professionals to ensure comprehensive and quality care for the client, consistent with the objectives in the client's treatment plan or for purposes of making adjustments to the client's treatment plan. Consultation may include history-taking; examination of the client; rendering an opinion concerning diagnosis or treatment; or offering service, assistance or advice.

"Professional conduct" means behavior that adheres to the practice standards set out in rule 655—16.3(148I).

"Unprofessional conduct" means unethical conduct, including but not limited to acts or behavior that is inconsistent with Iowa Code chapter 148I or any violations of this chapter.

655—16.2(148I) Licensure.

16.2(1) *Initial license.* An individual seeking initial licensure as a certified professional midwife (CPM) will submit the following:

a. A completed application for licensure.

b. Payment of the application fee.

c. A dated copy of the applicant's current certification issued by the North American Registry of Midwives or its successor organization, including the applicant's education or midwifery bridge certificate in accordance with Iowa Code section 148I.2.

d. An official transcript or certificate denoting the date of high school graduation and diploma or equivalent.

e. A dated certificate of completion of mandatory reporter training.

f. A written plan in accordance with Iowa Code section 148I.4(1)*"g."*

g. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

h. If the applicant has a criminal history, a copy of all documents required by rule 655—3.11(272C).

16.2(2) *Renewal of license.* A CPM license may be renewed beginning 60 days prior to the license expiration date and ending 30 days after the license expiration date. To renew, a licensee shall submit the following:

a. A completed application for licensure.

b. Payment of the application fee.

c. A dated copy of the applicant's current certification issued by the North American Registry of Midwives or its successor organization.

d. Attestation of fulfillment of the continuing education and peer review requirements established by the North American Registry of Midwives or its successor organization.

e. Attestation of reporting client data to the department of health and human services by way of filing the paperwork required to obtain a birth certificate in accordance with Iowa Code section 148I.4(1) *"i."*

16.2(3) *Inactive status.* Failure to renew a CPM license within 30 days after its expiration will result in an inactive CPM license.

a. Continuing to work as a CPM with an inactive CPM license may result in disciplinary action.

b. To reactivate the license, the licensee must complete the license renewal process established in subrule 16.2(2).

16.2(4) *Fees.* The following fees apply to licensure for CPMs.

a. Application fee for an initial license is $81 for a period of licensure up to three years.

b. Evaluation fee of the fingerprint cards and the criminal history background check by the Federal Bureau of Investigation (FBI) and the state division of criminal investigation (DCI) is $50.

c. Fee for renewal of license to practice as a CPM is $81.

d. Fee for late renewal of a license to practice as a CPM is $50, plus the renewal fee.

e. Fee for reactivation of a license to practice as a CPM is $81 for any period of licensure up to three years.

f. All other fees are the same as defined in rule 655—3.1(148I).

16.2(5) *Exceptions to licensure.* Exceptions to licensure are established in Iowa Code section 148I.3.

655—16.3(148I) Practice standards. A CPM shall practice within the legal boundaries for certified professional midwifery as set forth in Iowa Code chapter 148I, this chapter, and any other pertinent law or regulation. A licensed CPM shall:

16.3(1) Comply with the practice standards accepted by the North American Registry of Midwives as defined by the National Association of Certified Professional Midwives (NACPM) or its successor organization, as of February 1, 2024, found at nacpm.org.

16.3(2) Demonstrate professionalism and accountability in the practice of certified professional midwifery, including:

a. Demonstrating honesty and integrity in practice.

b. Basing decisions in practice on knowledge, judgment, skills, and the needs of clients.

c. Maintaining competence through completion of the continuing education requirements in subrule 16.2(2) and application of such education in practice.

d. Reporting to appropriate authorities instances of unsafe practice by a CPM.

e. Being accountable for judgments and individual actions as a CPM and competence, decisions, and behaviors in the practice of certified professional midwifery.

16.3(3) Maintain a record of, and provide to each client orally and by written consent form, all information and consents in accordance with Iowa Code section 148I.4(1)*"h."*

16.3(4) Comply with Iowa Code sections 136A.6 and 136A.5A.

16.3(5) File a birth certificate for each birth in accordance with Iowa Code section 148I.4.

16.3(6) Consult with a licensed physician or certified nurse midwife for high-risk pregnancies and births.

a. A CPM shall consult with a licensed physician or a certified nurse midwife providing obstetrical care whenever there are significant deviations, including but not limited to abnormal laboratory results, relative to a client's pregnancy or to a neonate. If a referral to a physician is needed, the CPM shall refer the client to a physician and, if possible, remain in consultation with the physician until resolution of the concern.

b. A CPM shall consult with a licensed physician or certified nurse midwife with regard to any mother who presents with or develops the following risk factors or presents with or develops other risk factors that in the judgment of the CPM warrant consultation:

(1) Antepartum.

1. Pregnancy-induced hypertension, as evidenced by a blood pressure of at least 140/90 on two occasions greater than six hours apart.
2. Persistent, severe headaches; epigastric pain; or visual disturbances.
3. Persistent symptoms of urinary tract infection.
4. Significant vaginal bleeding before the onset of labor not associated with uncomplicated spontaneous abortion.
5. Rupture of membranes prior to the thirty-seventh week of gestation.
6. Noted abnormal decrease in or cessation of fetal movement.
7. Anemia resistant to supplemental therapy.
8. Fever of 102°F or 39°C or greater for more than 24 hours.
9. Nonvertex presentation after 38 weeks of gestation.
10. Hyperemesis or significant dehydration.
11. Isoimmunization, Rh-negative sensitized, positive titers, or any other positive antibody titer that may have a detrimental effect on mother or fetus.
12. Elevated blood glucose level unresponsive to dietary management.
13. Positive HIV antibody test.
14. Primary genital herpes infection in pregnancy.
15. Symptoms of malnutrition, anorexia, protracted weight loss or failure to gain weight.
16. Suspected deep vein thrombosis.
17. Documented placental anomaly or previa.
18. Documented low-lying placenta in a woman with a history of previous cesarean delivery.
19. Labor prior to the thirty-seventh week of gestation.
20. History of prior uterine incision.
21. Lie other than vertex at term.
22. Known fetal anomalies that may be affected by the site of birth.
23. Marked abnormal fetal heart tones.
24. Abnormal nonstress test or abnormal biophysical profile.
25. Marked or severe polyhydramnios or oligohydramnios.

26. Evidence of intrauterine growth restriction.
27. Significant abnormal ultrasound findings.
28. Gestation beyond 42 weeks by reliable confirmed dates.

(2) Intrapartum.

1. Rise in blood pressure above baseline, more than 30/15 points or greater than 140/90.
2. Persistent, severe headaches; epigastric pain; or visual disturbances.
3. Significant proteinuria or ketonuria.
4. Fever over 100.6°F or 38°C in absence of environmental factors.
5. Ruptured membranes without onset of established labor after 18 hours.
6. Significant bleeding prior to delivery or any abnormal bleeding, with or without abdominal pain; or evidence of placental abruption.
7. Lie not compatible with spontaneous vaginal delivery or unstable fetal lie.
8. Failure to progress after five hours of active labor or following two hours of active second-stage labor.
9. Signs and symptoms of maternal infection.
10. Active genital herpes at onset of labor.
11. Fetal heart tones with nonreassuring patterns.
12. Signs or symptoms of fetal distress.
13. Thick meconium or frank bleeding with birth not imminent.
14. Client or CPM desires physician consultation or transfer.

(3) Postpartum.

1. Failure to void within six hours of birth.
2. Signs or symptoms of maternal shock.
3. Febrile: 102°F or 39°C and unresponsive to therapy for 12 hours.
4. Abnormal lochia or signs or symptoms of uterine sepsis.
5. Suspected deep vein thrombosis.
6. Signs of clinically significant depression.

c. A CPM shall consult with a licensed physician or certified nurse midwife with regard to any neonate who is born with or develops the following risk factors:

(1) Apgar score of six or less at five minutes without significant improvement by ten minutes.
(2) Persistent grunting respirations or retractions.
(3) Persistent cardiac irregularities.
(4) Persistent central cyanosis or pallor.
(5) Persistent lethargy or poor muscle tone.
(6) Abnormal cry.
(7) Birth weight less than 2,300 grams.
(8) Jitteriness or seizures.
(9) Jaundice occurring before 24 hours or outside of normal range.
(10) Failure to urinate within 24 hours of birth.
(11) Failure to pass meconium within 48 hours of birth.
(12) Edema.
(13) Prolonged temperature instability.
(14) Significant signs or symptoms of infection.
(15) Significant clinical evidence of glycemic instability.
(16) Abnormal, bulging, or depressed fontanel.
(17) Significant clinical evidence of prematurity.
(18) Medically significant congenital anomalies.
(19) Significant or suspected birth injury.
(20) Persistent inability to suck.
(21) Diminished consciousness.
(22) Clinically significant abnormalities in vital signs, muscle tone or behavior.
(23) Clinically significant color abnormality, cyanotic, or pale or abnormal perfusion.

(24) Abdominal distension or projectile vomiting.

(25) Signs of clinically significant dehydration or failure to thrive.

16.3(7) Not use forceps or a vacuum extractor in accordance with Iowa Code section 148I.4.

655—16.4(148I) Delegation to another CPM. The CPM shall apply the delegation process when delegating to another CPM by:

16.4(1) Delegating only those midwifery tasks that fall within the delegate's scope of practice, education, experience, and competence.

16.4(2) Matching the client's needs and circumstances with the delegate's qualifications and resources.

16.4(3) Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the delegate.

16.4(4) Monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.

16.4(5) Evaluating client outcomes as a result of the delegation process.

16.4(6) Intervening when problems are identified and revising plan of care when needed.

16.4(7) Retaining accountability for properly implementing the delegation process.

16.4(8) Promoting a safe and therapeutic environment by:

a. Providing appropriate monitoring of the care environment.

b. Identifying unsafe care situations.

c. Correcting problems or referring problems to a physician as described in Iowa Code section 148.1 or advanced registered nurse practitioner as defined in Iowa Code section 152.1.

655—16.5(148I) Testing and drugs.

16.5(1) A licensee may:

a. Obtain and administer drugs in accordance with Iowa Code section 148I.4.

b. Obtain and administer the following drugs approved by the board of nursing:

(1) Pyridoxine (vitamin B6) IM or IV for treatment of hyperemesis;

(2) Terbutaline for cord prolapse; and

(3) Nifedipine for eclampsia.

c. Request board approval to obtain and administer other drugs, not otherwise stated in Iowa Code section 148I.4(1)*"d,"* consistent with the practice of certified professional midwifery.

d. Obtain appropriate screening and testing for clients in accordance with Iowa Code section 148I.4(1)*"c."*

e. Administer prescription drugs prescribed by a licensed health care provider to a client in accordance with Iowa Code section 148I.4(1)*"e."*

16.5(2) A licensee who dispenses or administers controlled substances must adhere to 657—Chapter 10.

16.5(3) In addition to following the standards of practice for treating a client described in rule 655—16.3(148I), a licensee who administers a controlled substance shall practice in accordance with the following:

a. The client's health history will include a personal and family substance abuse risk assessment performed by a licensed prescribing health care provider or the documented rationale for not performing the assessment.

b. The client's health record must include documentation of the presence of one or more recognized indications for the use of a controlled substance.

c. A licensee who administers any controlled substance will maintain an active Drug Enforcement Administration (DEA) registration and active controlled substances Act (CSA) registration when required by the DEA and the board of pharmacy.

655—16.6(148I) Discipline. A licensee may be disciplined for failure to comply with Iowa Code chapter 148I or this chapter or for any wrongful act or omission related to the licensee's practice, licensure, or professional conduct, including but not limited to the following:

16.6(1) In accordance with Iowa Code section 147.55(1), behavior that constitutes fraud in procuring a license that may include but need not be limited to the following:

a. Falsification of the application, certification, or records submitted to the board for licensure or license renewal as a CPM.

b. Fraud, misrepresentation, or deceit in taking the licensing examination or in obtaining a license as a CPM.

16.6(2) In accordance with Iowa Code section 147.55(2), professional incompetency that may include but need not be limited to the following:

a. Lack of knowledge, skill, or ability to discharge professional obligations within the scope of the practice of midwifery.

b. Deviation by the licensee from the standards of learning, education, or skill ordinarily possessed and applied by other CPMs in the state of Iowa acting in the same or similar circumstances.

c. Willful or repeated departure from or failure to form to the minimum standards of acceptable and prevailing practice of midwifery in the state of Iowa.

16.6(3) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) that constitutes unethical conduct or practice harmful or detrimental to the public that may include but need not be limited to the following:

a. Engaging in practice contradictory to NACPM standards of practice.

b. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared.

c. Allowing another person to use one's license for any purpose.

d. Failing to comply with any rule promulgated by the board related to minimum standards of care.

e. Improper delegation of services, functions or responsibilities.

f. Committing an act or omission that may adversely affect the physical or psychosocial welfare of the client.

g. Committing an act that causes physical, emotional, or financial injury to the client.

h. Violating the confidentiality or privacy rights of the client.

i. Discriminating against a client because of age, sex, race, ethnicity, national origin, creed, illness, disability, sexual orientation, or economic or social status.

j. Failing to assess, accurately document, evaluate, or report the status of a client when necessary.

k. Misappropriating or attempting to misappropriate medications, property, supplies, or equipment of the client.

l. Fraudulently or inappropriately using or permitting the use of prescriptions, obtaining or attempting to obtain prescription medications under false pretenses, or assisting others to obtain or attempt to obtain prescription medication under false pretenses.

m. Practicing midwifery while under the influence of alcohol, marijuana, or illicit drugs or while impaired by the use of pharmacological agents or medications, even if legitimately prescribed.

n. Being involved in the unauthorized manufacture or distribution of a controlled substance.

o. Being involved in the unauthorized possession or use of a controlled substance.

p. Engaging in behavior that is contradictory to professional decorum.

q. Failing to report suspected wrongful acts or omissions committed by the licensee of the board.

r. Failing to comply with an order of the board.

s. Administering drugs:

(1) In an unsafe manner.

(2) Without accurately documenting the drug or without assessing, evaluating, or instructing the patient or client.

(3) To individuals who are not clients.

t. Failing to properly safeguard or secure medications.

u. Failing to properly document or perform medication wastage.

16.6(4) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) that constitutes unethical conduct or practice harmful or detrimental to the public that may include but need not be limited to the professional boundaries violations in paragraphs 16.6(4)*"a"*

through *"e."* For purposes of this subrule, "client" includes the client and the client's family that are present with the client while the client is under the care of the licensee.

a. Sexual contact with a client, regardless of the client's consent.

b. Making lewd, suggestive, demeaning, or otherwise sexual comments, regardless of client consent.

c. Participating in, initiating, or attempting to initiate a sexual or emotional relationship with a client, regardless of client consent.

d. Soliciting, borrowing, or misappropriating money or property from a client, regardless of client consent.

e. Engaging in a sexual, emotional, social or business relationship with a former client when there is a risk of exploitation or harm to the client, regardless of client consent.

16.6(5) In accordance with Iowa Code section 147.55(4), habitual intoxication or addiction to the use of drugs that may include but need not be limited to the following:

a. Excessive use of alcohol that may impair a licensee's ability to practice the profession with reasonable skill and safety.

b. Excessive use of drugs that may impair a licensee's ability to practice the profession with reasonable skill and safety.

16.6(6) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or if the circumstances under which the offense was committed are circumstances customary to the profession.

16.6(7) In accordance with Iowa Code section 147.55(5), fraud in representation as to skill or ability.

16.6(8) In accordance with Iowa Code section 147.55(6), use of untruthful or improbable statements in advertisements.

16.6(9) In accordance with Iowa Code section 147.55(7), willful or repeated violations of provisions of Iowa Code chapter 147, 148I, or 272C.

16.6(10) In accordance with Iowa Code section 147.55(10), other acts or offenses as specified by board rules, including the following:

a. Failing to provide written notification of a change of address to the board within 30 days of the event.

b. Failing to notify the board within 30 days from the date of the final decision in a disciplinary action taken by the licensing authority of another state, territory, or country.

c. Failing to notify the board of a criminal conviction within 30 days of the action, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction where it occurred.

d. Failing to submit an additional completed fingerprint packet as required and the applicable fee, when a previous fingerprint submission has been determined to be unacceptable, within 30 days of a request made by board staff.

e. Failing to respond to the board during a board audit or submit verification of compliance with continuing education requirements or exceptions within the time period provided.

f. Failing to respond to the board during a board audit or submit verification of compliance with training in child or dependent adult abuse identification and reporting or exceptions within the time period provided.

g. Failing to respond to or comply with a board investigation or subpoena.

h. Engaging in behavior that is threatening or harassing to the board, board staff, or agents of the board.

16.6(11) In accordance with Iowa Code section 147.2 or 147.10:

a. Engaging in the practice of midwifery in Iowa prior to licensure.

b. Engaging in the practice of midwifery in Iowa on an inactive license.

655—16.7(148I) Telehealth.

16.7(1) *Telehealth permitted.* A CPM may, in accordance with all applicable laws and rules, provide services to a client through telehealth.

16.7(2) *License required.* A CPM who provides services through telehealth to a client physically located in Iowa must be licensed by the board. A CPM who provides services through telehealth to a client physically located in another state shall be subject to the laws and jurisdiction of the state where the client is physically located.

16.7(3) *Standard of care.*

a. A CPM who provides services through telehealth shall be held to the same standard of care as is applicable to in-person settings. A CPM shall not perform any service via telehealth unless the same standard of care can be achieved as if the service were performed in person.

b. Prior to initiating contact with a client for the purpose of providing services to the client using telehealth, a CPM shall:

(1) Review the client's history and all relevant medical records; and

(2) Determine as to each unique client encounter whether the CPM will be able to provide the same standard of care using telehealth as would be provided if the services were provided in person.

16.7(4) *Scope of practice.* A CPM who provides services through telehealth must ensure the services provided are consistent with the CPM's scope of practice, education, training and experience.

16.7(5) *CPM-client relationship.*

a. Prior to providing services through telehealth, the CPM shall first establish a CPM-client relationship. A CPM-client relationship is established when:

(1) The client seeks assistance from the CPM;

(2) The CPM agrees to provide services; and

(3) The client agrees to be treated, or the client's legal guardian or legal representative agrees to the client being treated, by the CPM regardless of whether there has been a previous in-person encounter between the CPM and the client.

b. A CPM-client relationship can be established through an in-person encounter, consultation with another CPM or health care provider, or telehealth encounter.

c. Notwithstanding paragraphs 16.7(5)*"a"* and *"b,"* services may be provided through telehealth without first establishing a CPM-client relationship in the following settings or circumstances:

(1) In response to an emergency or disaster;

(2) Via informal consultations with another health care provider performed by a CPM outside of the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(3) A substitute CPM acting on behalf and at the designation of an absent CPM in the same specialty on an on-call or cross-coverage basis.

16.7(6) *Consent to telehealth.* Prior to providing services via telehealth, the CPM shall obtain consent from the client, or the client's legal guardian or legal representative, to receive services via telehealth.

16.7(7) *Technology.* A CPM providing services through telehealth shall utilize technology that is secure and compliant with the Health Insurance Portability and Accountability Act (HIPAA), as effective June 19, 2024. The technology must be of sufficient quality, size, resolution, and clarity such that the CPM can safely and effectively provide the telehealth services and abide by the applicable standard of care.

16.7(8) *Records.* A CPM who provides services through telehealth shall maintain a record of the care provided to the client. Such records shall comply with all applicable laws, rules, and standards of care for recordkeeping, confidentiality, and disclosure of a client's medical record.

16.7(9) *Follow-up care.* A CPM who provides services through telehealth shall refer a client for follow-up care when required by the standard of care.

These rules are intended to implement Iowa Code chapter 148I.

[Filed Emergency After Notice 6/19/24, effective 6/19/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8107C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Rulemaking related to realignment

The Department on Aging hereby rescinds Chapter 11, "Waivers From Administrative Rules," Chapter 13, "Rules and Practices in Contested Cases," Chapter 17, "Petition for Rule Making," and Chapter 18, "Declaratory Orders," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The purpose of this rulemaking is to implement the state government realignment provisions of 2023 Iowa Acts, Senate File 514. This rulemaking eliminates uniform rules of agency practice and procedure that are redundant or duplicative of existing rules adopted by the Iowa Department of Health and Human Services (Department) to reduce confusion and establish a single set of uniform rules for the newly reorganized Department.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7314C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on Aging on June 10, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **17—Chapter 11**.

ITEM 2. Rescind and reserve **17—Chapter 13**.

ITEM 3. Rescind and reserve **17—Chapter 17**.

ITEM 4. Rescind and reserve **17—Chapter 18**.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8100C

CULTURAL AFFAIRS DEPARTMENT[221]

Adopted and Filed

Rulemaking related to agency reorganization

The Iowa Economic Development Authority (IEDA) hereby rescinds Chapter 1, "Organization and Operation," Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Declaratory Orders," and Chapter 4, "Department Procedure for Rule Making," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15.106A and 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

IEDA was assigned responsibilities and duties that were previously assigned to the Department of Cultural Affairs (DCA) by 2023 Iowa Acts, Senate File 514. This rulemaking rescinds DCA chapters that are redundant or duplicative of existing rules adopted by IEDA.

IEDA is rescinding the following chapters:

221—Chapter 1, which describes the organization and operation of DCA. The responsibilities of DCA were assigned to IEDA and the Department of Administrative Services by 2023 Iowa Acts, Senate File 514.

221—Chapter 2, which describes DCA's public records and fair information practices and duplicates 261—Chapter 195.

221—Chapter 3, which describes the process by which DCA issued declaratory orders and duplicates 261—Chapter 198.

221—Chapter 4, which describes DCA's procedure for rulemaking and duplicates 261—Chapter 196.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on March 20, 2024, as **ARC 7721C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on May 17, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **221—Chapter 1**.

ITEM 2. Rescind and reserve **221—Chapter 2**.

ITEM 3. Rescind and reserve **221—Chapter 3**.

ITEM 4. Rescind and reserve **221—Chapter 4**.

[Filed 6/14/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8101C

HISTORICAL DIVISION[223]

Adopted and Filed

Rulemaking related to agency reorganization

The Iowa Economic Development Authority (IEDA) hereby rescinds Chapter 3, "Public Records and Fair Information Practices," Chapter 4, "Agency Procedure for Rule Making," Chapter 5, "Petitions for

Rule Making," Chapter 6, "Declaratory Rulings," and Chapter 46, "Main Street Linked Investments Loan Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15.106A and 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

IEDA was assigned responsibilities and duties that were previously assigned to the Department of Cultural Affairs (DCA), including the Historical Division, by 2023 Iowa Acts, Senate File 514. This rulemaking rescinds Historical Division chapters that are redundant or duplicative of existing rules adopted by IEDA.

IEDA is rescinding the following chapters:

223—Chapter 3, which describes the Division's public records and fair information practices and duplicates 261—Chapter 195.

223—Chapter 4, which describes the Division's procedure for rulemaking and duplicates 261—Chapter 196.

223—Chapter 5, which describes the Division's process for addressing petitions for rulemaking and duplicates 261—Chapter 197.

223—Chapter 6, which describes the process by the Division for issuing declaratory rulings and duplicates 261—Chapter 198.

223—Chapter 46, which addresses the Main Street Linked Investments Loan Program. The program has been repealed.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on March 20, 2024, as **ARC 7722C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on May 17, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **223—Chapter 3**.

ITEM 2. Rescind and reserve **223—Chapter 4**.

ITEM 3. Rescind and reserve **223—Chapter 5**.

ITEM 4. Rescind and reserve **223—Chapter 6**.

ITEM 5. Rescind and reserve **223—Chapter 46**.

[Filed 6/14/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8108C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to contracting out department of human services employees and property

The Department of Health and Human Services (HHS) hereby rescinds Chapter 2, "Contracting Out Department of Human Services Employees and Property," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 23A.2 and 225C.13.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 23A.2 and 225C.13 and Executive Order 10 (January 10, 2023).

Purpose and Summary

This chapter describes legacy Department of Human Services procedures for entering into contracts with service providers (contractors) for the use of Department of Human Services employees in a service program or the use of buildings and grounds of state institutions. However, HHS no longer engages in the activities described in this chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on March 20, 2024, as **ARC 7724C**. A public hearing was held on the following date(s):

- April 10, 2024
- April 15, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **441—Chapter 2**.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8109C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to disability services management

The Department of Health and Human Services (HHS) hereby amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 225C.6, 225C.55, and 225C.69.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, House File 471.

Purpose and Summary

The amendments are designed to provide oversight and establish standards for the regional mental health and disability services system. Chapter 25 has been updated to reflect changes made in 2023 Iowa Acts, House File 471, which changed the governance structure for Mental Health and Disability Services (MHDS) regions. Other amendments are designed to clarify a new core (required) service of competency restoration, specifically, that "community" means "outpatient" so it is clear for the courts, attorneys, practitioners, and the public.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 1, 2024, as **ARC 7885C**. A public hearing was held on the following date(s):

- May 22, 2024
- May 24, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend rule 441—25.1(331), parenthetical implementation statute, as follows:

441—25.1(~~331~~225C) Definitions.

ITEM 2. Amend rule **441—25.1(331)**, definitions of "Region" and "Severe and persistent mental illness," as follows:

"Region" means a mental health and disability service region that operates as the "'regional administrator' or 'regional administrative entity'" as defined in rule ~~441—25.11(331)~~ 441—25.11(225C).

"Severe and persistent mental illness" or *"SPMI"* means a documented primary mental health disorder diagnosed by a mental health professional that causes symptoms and impairments in basic mental and behavioral processes that produce distress and major functional disability in adult role functioning inclusive of social, personal, family, educational or vocational roles. The individual has a degree of impairment arising from a psychiatric disorder such that: (1) the individual does not have the resources or skills necessary to maintain function in the home or community environment without assistance or support; (2) the individual's judgment, impulse control, or cognitive perceptual abilities are compromised; (3) the individual exhibits significant impairment in social, interpersonal, or familial functioning; and (4) the individual has a documented mental health diagnosis. For this purpose, a "mental health diagnosis" means a disorder, dysfunction, or dysphoria diagnosed pursuant to the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association (published 2013, with all changes and updates approved by the American Psychiatric Association through September 2023 incorporated herein), excluding neurodevelopmental disorders, substance use disorders, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association (published 2013, with all changes and updates approved by the American Psychiatric Association through September 2023 incorporated herein).

ITEM 3. Adopt the following **new** definition of "Outpatient competency restoration" in rule **441—25.1(331)**:

"Outpatient competency restoration" means a community-based service to restore competency for individuals found by a court not to pose a danger to the public but to be incompetent to stand trial. The service includes components such as psychiatric prescribing and medication management, mental health and substance use disorder treatment services, competency education, and service coordination.

ITEM 4. Amend rule 441—25.2(331) as follows:

441—25.2(~~331~~225C) Core service domains.

25.2(1) The region shall ensure that core service domains are available in regions as determined in Iowa Code sections ~~331.397 and 331.397A~~ 225C.65 and 225C.66.

25.2(2) No change.

25.2(3) The region shall ensure that the following services are available for adults in the region:

a. to *r.* No change.

s. Outpatient competency restoration.

~~*s.*~~ *t.* Peer support.

~~*t.*~~ *u.* Personal emergency response system.

~~*u.*~~ *v.* Prevocational services.

~~*v.*~~ *w.* Respite.

~~*w.*~~ *x.* Subacute mental health services.

~~*x.*~~ *y.* Supported employment.

~~*y.*~~ *z.* Supportive community living.

~~*z.*~~ *aa.* Twenty-four-hour access to crisis response.

~~*aa.*~~ *bb.* Twenty-three-hour crisis observation and holding.

Regions may fund or provide other services in addition to the required core services consistent with requirements set forth in subrules 25.2(5) and 25.2(6).

25.2(4) The region shall ensure that the following services are available for children in the region:

a. to *j.* No change.

k. Outpatient competency restoration.

~~*k.*~~ *l.* Prevention.

25.2(5) and **25.2(6)** No change.

ITEM 5. Amend rule 441—25.4(331) as follows:

441—25.4(~~331~~225C) Access standards. Regions shall meet the following access standards:

25.4(1) to **25.4(12)** No change.

ITEM 6. Amend rule 441—25.5(331) as follows:

441—25.5(~~331~~225C) Practices. A region shall ensure that access is available to providers of core services that demonstrate the following competencies:

25.5(1) to **25.5(3)** No change.

ITEM 7. Amend rule 441—25.6(331) as follows:

441—25.6(~~331~~225C) Intensive mental health services. The purpose of intensive mental health services is to provide a continuum of services and supports to adults with complex mental health and multi-occurring conditions who need a high level of intensive and specialized support to attain stability in health, housing, and employment and to work toward recovery.

25.6(1) to **25.6(7)** No change.

25.6(8) *Intensive residential services.* The purpose of intensive residential services is to serve adults with the most intensive severe and persistent mental illness conditions who have functional impairments and may also have multi-occurring conditions. Intensive residential services provide intensive 24-hour supervision, behavioral health services, and other supportive services in a community-based residential setting.

a. and *b.* No change.

c. Eligibility criteria for admission to intensive residential services. To be eligible to receive intensive residential services, an individual shall meet all of the following criteria:

(1) No change.

(2) The individual has had a standardized functional assessment and screening for multi-occurring conditions completed 30 days or less prior to application for intensive residential services, and the functional assessment and screening demonstrates that the individual:

1. Has a diagnosis that meets the criteria of severe and persistent mental illness as defined in rule ~~441—25.1(331)~~ 441—25.1(225C);

2. to 6. No change.

ITEM 8. Amend rule 441—25.7(331) as follows:

441—25.7(~~331~~225C) Non-core services. When a mental health and disability services region chooses to make the following non-core services available, the region shall ensure that such services meet the requirements of this rule.

25.7(1) and **25.7(2)** No change.

ITEM 9. Amend **441—Chapter 25**, Division I implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter ~~331~~ 225C.

ITEM 10. Amend **441—Chapter 25**, Division II preamble, as follows:

These rules define the standards for a regional service system. The mental health and disability services and children's behavioral health services shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator (Iowa Code section ~~331.393~~ 225C.60). It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services and that Iowa children should have access to needed behavioral health services regardless of the location of their residence.

ITEM 11. Amend rule 441—25.11(331) as follows:

441—25.11(~~331~~225C) Definitions.

"Access point" means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services.

"Assessment and evaluation" means the same as defined in rule ~~441—25.1(331)~~ 441—25.1(225C).

"Assistive technology account" means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working individual with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

"Authorized representative" means a person designated by the individual or by Iowa law to act on the individual's behalf in specified affairs to the extent prescribed by law.

"Cash flow" means the same as "ending fund balance."

"Chief executive officer" means the person chosen and supervised by the governing board who serves as the single point of accountability for the mental health and disability services region and whose responsibilities include, but are not limited to, planning, budgeting, monitoring county and regional expenditures, and ensuring the delivery of quality services that achieve expected outcomes for the individuals served.

"Choice" means the individual or authorized representative chooses the services, supports, and goods needed to best meet the individual's goals and accepts the responsibility and consequences of those choices.

"Clear lines of accountability" means the structure of the governing board's organization makes it evident that the ultimate responsibility for the administration of the non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization's chief executive officer.

"Community" means an integrated setting of an individual's choice.

"Conflict-free case management" means there is no real or seeming incompatibility between the case manager's other interests and the case manager's duties to the individual served and includes case management separate from direct service provision; eligibility determination for services; establishment of funding levels for the individual's services; and requirements that prohibit the case manager from performing evaluations, assessments, and plans of care if the case manager is related by blood or marriage to the individual or any of the individual's paid caregivers or persons financially responsible for the individual or empowered to make financial or health-related decisions on behalf of the individual.

"Coordinator of children's behavioral health services" means a member of the regional administrative entity staff who meets the requirements described in Iowa Code section ~~331.390(3) *"b"*~~ 225C.57(3)*"b"* and is responsible for coordinating behavioral health services for children.

"Coordinator of mental health and disability services" means a member of the regional administrative entity staff who meets the requirements described in Iowa Code section ~~331.390(3) *"b"*~~ 225C.57(3)*"b"* and is responsible for coordinating mental health and disability services for adults.

"Countable household income" means earned and unearned income of the family of a child according to the modified adjusted gross income methodology.

"Countable resource" means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

"Countable value" means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

"County of residence" means the same as defined in Iowa Code section ~~331.394~~ 225C.61.

"Department" means the department of health and human services.

"Director" means the director of health and human services.

"Disability services" means the same as defined in Iowa Code section 225C.2.

"Emergency services" means the same as defined in 441—subrule 24.4(15).

"Empowerment" means that the service system ensures the rights, dignity, and ability of individuals and their families to exercise choices, take risks, provide input, and accept responsibility.

"Encumbered" or *"encumbrances"* means regional commitments related to obligations or contracts as defined in subrule 25.13(6).

"Ending balance limitation" means the percentage limit allowable by state law that a region's ending fund balance can exceed actual expenditures for the previous fiscal year.

"Ending balance threshold" means the same as defined in Iowa Code section 225C.7A.

"Ending fund balance" means the amount of residual funds remaining in a region's combined account at the conclusion of a fiscal year after the region has met the financial obligations for implementation of its regional service system management plan.

"Exempt resource" means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

"Federal poverty level" means the most recently revised annual poverty income guidelines published in the Federal Register by the United States Department of Health and Human Services.

"Homeless person" means the same as defined in Iowa Code section 48A.2.

"Household" means, for an individual who is 18 years of age or over, the individual, the individual's spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the individual. For an individual under the age of 18, "household" means the individual, the individual's parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or wards under the age of 18 of the individual's parents (or parent and domestic partner), stepparents, or guardians who reside with the individual.

"Income" means all gross income received by the individual's household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

"Individual" means any person seeking or receiving services in a regional service system.

"Individualized services" means services and supports that are tailored to meet the personalized needs of the individual.

"Judicial system" means the same as described in Iowa Code section 602.1102.

"Law enforcement" or *"law enforcement representative"* means the same as "law enforcement officer" as defined in Iowa Code section 80B.3(3), or state and local correctional officers, and community-based corrections personnel.

"Liquid assets" means assets that can be converted to cash in 20 days. Liquid assets include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

"Managed care" means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors: achieving high-quality outcomes for participants, coordinating access, and containing costs.

"Managed system" means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

"Management organization" means an organization contracted to manage part or all of the service system for a region.

"Medical savings account" means an account that is exempt from federal income taxation pursuant to Section 223 of the U.S. Internal Revenue Code (26 U.S.C. §223) (January 5, 2023) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

"Mental health professional" means the same as defined in Iowa Code section 228.1(7).

"Modified adjusted gross income" means the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603 (October 1, 2022).

"Non-liquid assets" means assets that cannot be converted to cash in 20 days. Non-liquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

"Population" means the same as defined in Iowa Code section ~~331.388~~ 225C.55.

"Provider" means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance, is accredited under 441—Chapter 24, holds a professional license to provide the service, is accredited by a national insurance panel, or holds other national accreditation or certification.

"Region incentive fund" means the same as defined in Iowa Code section 225C.7A.

"Regional administrator" or *"regional administrative entity"* means the administrative office or organization formed by agreement of the counties participating in a mental health and disability services region to function on behalf of those counties.

"Regional service growth factor" means the same as defined in Iowa Code section 225C.7A.

"Regional service fund" means the mental health and disability regional service fund created in Iowa Code section 225C.7A.

"Regional service system management plan" means the regional service system plan developed pursuant to Iowa Code section ~~331.393~~ 225C.60 for the funding and administration of non-Medicaid-funded mental health and disability services and includes an annual service and budget plan, a policies and procedures manual, and an annual report and how the region will coordinate with the department in the provision of mental health and disability services funded under the medical assistance program.

"Resources" means all liquid and non-liquid assets that are owned in part or in whole by the individual household, that could be converted to cash to use for support and maintenance, and that the individual household is not legally restricted from using for support and maintenance.

"Retirement account" means any retirement or pension fund or account listed in Iowa Code section 627.6(8)*"f."*

"Retirement account in the accumulation stage" means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.

"Service system" refers to the mental health and disability services and supports administered by the regional administrative entity and paid from the regional services fund.

"State case status" means the standing of an individual who has no county of residence.

"State commission" means the same as defined in Iowa Code section 225C.5.

"System of care" means the coordination of a system of services and supports to individuals and their families that ensures they optimally live, work, and recreate in integrated communities of their choice.

"System principles" means practices that include individual choice, community and empowerment.

ITEM 12. Amend rule 441—25.12(331) as follows:

441—25.12(~~331~~225C) Regional governance structure. The counties comprising a mental health and disability services region shall enter into an agreement to form a regional administrator under the control of a governing board to function on behalf of those counties as defined in Iowa Code chapter 28E and sections ~~331.388, 331.390, 331.392 and 331.399~~ 225C.55, 225C.57, 225C.59 and 225C.68.

25.12(1) *Governing board.* The governing board shall comply with the provisions of Iowa Code section ~~331.390~~ 225C.57, Iowa Code chapter 69 and other applicable laws relating to boards and commissions, including but not limited to the following:

a. The governing board shall include the following ~~voting~~ members:

(1) ~~At least one board~~ Board of supervisors ~~member from each county~~ members' counties comprising the region ~~or their designees~~. Members representing boards of supervisors shall not exceed 49 percent of the total membership of the governing board.

(2) No change.

~~(3) Members designated by the regional children's behavioral health services advisory committee as follows:~~

~~1. One member representing the education system in the region.~~

~~2. One member who is a parent of a child who utilizes children's behavioral health services or is an actively involved relative of a child who utilizes such services.~~

(3) One member representing the education system in the region.

(4) One member who is a parent of a child who utilizes children's behavioral health services or is an actively involved relative of a child who utilizes such services.

(5) One member representing an adult service provider in the region, designated by the regional adult mental health and disability services advisory committee.

(6) One member representing a children's behavioral health service provider in the region, designated by the regional children's behavioral health services advisory committee.

(7) One member representing law enforcement in the region.

(8) One member representing the judicial system in the region.

~~*b.* The governing board shall include the following nonvoting members in an ex officio capacity:~~

~~(1) One member representing an adult service provider in the region, designated by the regional adult mental health and disability services advisory committee.~~

~~(2) One member representing a children's behavioral health service provider in the region, designated by the regional children's behavioral health services advisory committee.~~

b. Each member of the governing board shall have one vote.

c. The governing board shall create a regional adult mental health and disability services advisory committee, which shall designate members to the governing board as defined in Iowa Code section ~~331.390(2)~~ 225C.57(2).

d. The governing board shall create a regional children's behavioral health services advisory committee, which shall designate members to the governing board as defined in Iowa Code section ~~331.390(2)~~ 225C.57(2).

e. No change.

25.12(2) *Regional administrator.* The formation of the regional administrator shall be as defined in Iowa Code sections ~~331.388, 331.390, and 331.399~~ 225C.55, 225C.57, and 225C.68.

a. to *f.* No change.

25.12(3) *Regional service system management.* The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of Iowa Code section ~~331.393~~ 225C.60 are met by the private entity.

ITEM 13. Amend rule 441—25.13(331) as follows:

441—25.13(~~331~~225C) Regional finances.

25.13(1) No change.

25.13(2) *Funding.* Funding for non-Medicaid mental health and disability services and children's behavioral health services is under the control of the governing board and shall:

a. to *c.* No change.

d. Be maintained in a county mental health and disability services fund for the deposit of regional service payments for those counties exempted under Iowa Code section ~~331.389~~ 225C.56. Expenditures to be made from the county mental health and disability services fund will not be made from any other fund of the county. The exempted county mental health and disability services fund is considered to be the same as a region combined account and is subject to the same requirements as a region combined account.

25.13(3) *Accounting system and financial reporting.* The accounting system and financial reporting to the department shall conform to Iowa Code section ~~331.391~~ 225C.58 and include all non-Medicaid mental health and disability expenditures. Information shall be separated and identified in a uniform chart of accounts, including but not limited to the following: expenses for administration; purchase of services; and enterprise costs for which the region is a service provider or is directly billing and collecting payments.

25.13(4) to **25.13(7)** No change.

ITEM 14. Amend rule 441—25.14(331) as follows:

441—25.14(~~331~~225C) Regional governance agreement. The expectations for regional governance agreements entered into by the counties comprising a mental health and disability services region are defined in Iowa Code sections 28E.1, ~~331.388, 331.390 and 331.392~~ 225C.55, 225C.57, and 225C.59.

25.14(1) *Organizational provisions.* The organizational provisions of the regional governance agreement shall include the following:

a. to *e.* No change.

f. Provisions for joining a region. Additional counties may join the region. The agreement shall not prohibit a county from being assigned by the department to a region according to Iowa Code section ~~331.389(4) *"c."*~~ 225C.56(4) *"c."*

g. to *k.* No change.

25.14(2) *Administrative provisions.* The administrative provisions of the regional governance agreement shall include all of the following:

a. Identification of whether the region will either directly implement a system of service management or contract with a private entity to manage the regional service system as defined in Iowa Code section ~~331.393(7)~~ 225C.60(7).

b. to *d.* No change.

25.14(3) No change.

ITEM 15. Amend rule 441—25.15(331) as follows:

441—25.15(~~331~~225C) Eligibility, diagnosis, and functional assessment criteria.

25.15(1) *Eligibility for mental health services.* An individual must comply with all of the following requirements to be eligible for mental health services under the regional service system:

a. The individual complies with the financial eligibility requirements in rule ~~441—25.16(331)~~ 441—25.16(225C).

b. and *c.* No change.

d. The individual has had at any time during the preceding 12-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association (published 2013, with all changes and updates approved by the American Psychiatric Association through September 2023 incorporated herein) and shall not include the manual's "V" codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.

e. The results of a standardized functional assessment support the need for mental health services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for mental health services by the director ~~of human services~~ in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(2) *Eligibility for children's behavioral health services.* An individual must comply with all of the following requirements to be eligible for children's behavioral health services under the regional service system:

a. and *b.* No change.

c. The child's family meets the financial eligibility requirements in rule ~~441—25.16(331)~~ 441—25.16(225C).

d. The child has been diagnosed with a serious emotional disturbance. A serious emotional disturbance diagnosis is not required to access comprehensive facility and community-based crisis services according to Iowa Code section ~~331.397A(4) *"b."*~~ 225C.66(4) *"b."*

25.15(3) *Eligibility for intellectual disability services.* An individual must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

a. The individual complies with the financial eligibility requirements in rule ~~441—25.16(331)~~ 441—25.16(225C).

b. to *d.* No change.

e. The results of a standardized functional assessment support the need for intellectual disability services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for intellectual services by the director ~~of human services~~ in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(4) No change.

25.15(5) *Eligibility for brain injury services.* An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation.

a. The individual complies with the financial eligibility requirements in rule ~~441—25.16(331)~~ 441—25.16(225C).

b. to *d.* No change.

e. The results of a standardized functional assessment support the need for brain injury services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology used is the methodology approved for brain injury services by the director ~~of human services~~ in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(6) No change.

25.15(7) *Eligibility for developmental disability services.*

a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section ~~331.397(2)*"b."*~~ 225C.65(2)*"b."*

b. No change.

c. The individual complies with the financial eligibility requirements in rule ~~441—25.16(331)~~ 441—25.16(225C).

d. to *f.* No change.

ITEM 16. Amend rule 441—25.16(331) as follows:

441—25.16(~~331~~225C) Financial eligibility requirements. The regional service system management plan shall identify basic financial eligibility standards for mental health and disability services as defined in Iowa Code sections ~~331.395 and 331.396A~~ 225C.62 and 225C.64.

25.16(1) and **25.16(2)** No change.

25.16(3) *Cost-share standards.* A regional administrative entity must comply with cost-share standards as defined in Iowa Code sections ~~331.395 and 331.396A~~ 225C.62 and 225C.64.

a. Cost sharing is allowed for adults with income above 150 percent of the federal poverty level as defined by the most recently revised poverty guidelines published by the United States Department of Health and Human Services.

Cost-share amounts for regionally funded adult mental health and disability services in this rule are related to core services as defined in Iowa Code section ~~331.397~~ 225C.65 and must be identified in the enrollment and eligibility section of the region's policy and procedures approved by the department.

b. Cost-share amounts for children's behavioral health services are applicable to core services as defined in Iowa Code section ~~331.397A~~ 225C.66. The family of a child receiving regional funding for behavioral health services shall be responsible for a cost-share amount based on the family's household income as follows:

Family Income as a % of FPL	Cost Share % Paid by Family
0 to 150%	0%

151 to 200%	10%
201 to 250%	15%
251 to 300%	20%
301 to 350%	35%
351 to 400%	50%
401 to 450%	65%
451 to 500%	80%
Over 500%	100%

25.16(4) No change.

ITEM 17. Amend rule 441—25.17(331) as follows:

441—25.17(~~331~~225C) Exempted counties. If a county has been exempted pursuant to Iowa Code section ~~331.389~~ 225C.56 from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all the requirements of this chapter for a regional service system management plan.

ITEM 18. Amend rule 441—25.18(331) as follows:

441—25.18(~~331~~225C) Annual service and budget plan. The annual service and budget plan shall describe the services to be provided and the cost of those services for the ensuing year.

25.18(1) No change.

25.18(2) The annual service and budget plan shall include but not be limited to the following:

a. to *c.* No change.

d. Intensive mental health services. Identification of the intensive mental health services designated by the region according to rule ~~441—25.6(331)~~ 441—25.6(225C), including the provider name, contact information, and location of each of the following:

(1) to (4) No change.

e. No change.

f. Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need.

(1) The scope shall include the regional core services as identified in rule ~~441—25.2(331)~~ 441—25.2(225C).

(2) No change.

g. to *i.* No change.

ITEM 19. Amend rule 441—25.19(331) as follows:

441—25.19(~~331~~225C) Annual service and budget plan approval. The annual service and budget plan shall be submitted each year by April 1. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for a fiscal year beginning July 1 shall remain in effect until June 30, subject to amendment.

25.19(1) to **25.19(5)** No change.

ITEM 20. Amend rule 441—25.20(331) as follows:

441—25.20(~~331~~225C) Annual report. The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The annual report shall include but not be limited to:

1. to 9. No change.

ITEM 21. Amend rule 441—25.21(331) as follows:

441—25.21(~~331~~225C) Policies and procedures manual for the regional service system. The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system.

25.21(1) *Content.* The manual shall include but not be limited to:

a. and *b.* No change.

c. Eligibility. The process utilized to determine eligibility shall be included in the manual and shall include but not be limited to:

(1) No change.

(2) Financial eligibility and copayment criteria, which shall meet the requirements of rule ~~441—25.16(331)~~ 441—25.16(225C).

(3) and (4) No change.

d. to *f.* No change.

g. Targeted case management.

(1) and (2) No change.

(3) Targeted case management and service coordination services. Targeted case management and service coordination services utilized in a regional service system shall include but are not limited to the following as defined in Iowa Code section ~~331.393(4)"g"~~ 225C.60(4)"g":

1. to 3. No change.

h. to *o.* No change.

p. Service system management. The policies and procedures manual shall identify whether the region will be directly implementing a system of service management or will contract with a private entity to manage the regional service system. If the region contracts with a private entity, the region will ensure that all requirements of Iowa Code section ~~331.393~~ 225C.60 and these administrative rules are fulfilled.

q. and *r.* No change.

25.21(2) and **25.21(3)** No change.

25.21(4) *Reconsideration.* Regions dissatisfied with the director's decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

These rules are intended to implement Iowa Code sections ~~331.388 to 331.398~~ 225C.55 to 225C.67.

ITEM 22. Amend subrule 25.22(2) as follows:

25.22(2) *Applicant conditions.* To receive funding, a region must submit to the department sufficient data demonstrate that the region has met the standards in the region's performance-based contract outlined in rule ~~441—25.23(331)~~ 441—25.23(225C). Additionally, the region must meet the following conditions:

a. The region must be in compliance with the regional service system management plan as defined in Iowa Code section ~~331.393~~ 225C.60.

b. and *c.* No change.

ITEM 23. Amend rule 441—25.23(331) as follows:

441—25.23(~~331~~225C) Performance-based contract. The mental health and disability services region shall enter into a performance-based contract with the department to administer the service system in accordance with Iowa Code section 225C.7A. The performance-based contract shall include but not be limited to the following requirements:

25.23(1) The department will approve, deny, or revise each region's annual service and budget plan in accordance with rule ~~441—25.19(331)~~ 441—25.19(225C).

25.23(2) The region will provide access to all core services under Iowa Code sections ~~331.397~~ 225C.65 and ~~331.397A~~ 225C.66 and in accordance with this chapter.

25.23(3) to **25.23(5)** No change.

25.23(6) The department will take steps to address a region's noncompliance with the contract in accordance with Iowa Code section ~~331.389~~ 225C.56.

This rule is intended to implement Iowa Code section 225C.7A.

ITEM 24. Amend rule 441—25.41(331) as follows:

441—25.41(~~331~~225C) Minimum data set. Each region shall maintain data on all clients served.

25.41(1) No change.

25.41(2) *Data required.* The data to be submitted are as follows:

a. to *e.* No change.

f. Regions must submit their data for each fiscal year by December 1 of the following fiscal year.

(1) and (2) No change.

(3) If the region remains noncompliant after the 30-day time period, the department may take action as allowable under the performance-based contracts established pursuant to rule ~~441—25.23(331)~~ 441—25.23(225C).

This rule is intended to implement Iowa Code chapter ~~331, subchapter III, parts 1 and 2~~ 225C, subchapter V.

ITEM 25. Amend rule **441—25.51(229)**, definitions of "County of residence," "County where the individual is located" and "Mental health and disability services region," as follows:

"County of residence" means the same as defined in Iowa Code section ~~331.394~~ 225C.61.

"County where the individual is located" means the individual's county of residence as defined in Iowa Code section ~~331.394~~ 225C.61, or if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility.

"Mental health and disability services region" means the same as defined in Iowa Code section ~~331.389~~ 225C.56.

ITEM 26. Amend subrule 25.56(2) as follows:

25.56(2) As defined in rule ~~441—25.41(331)~~ 441—25.41(225C), the data to be submitted are as follows:

a. No change.

b. Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA) (published 2013, with all changes and updates approved by the American Psychiatric Association through September 2023 incorporated herein).

c. No change.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8110C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to adoption services

The Department of Health and Human Services (HHS) hereby rescinds Chapter 200, "Adoption Services," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 232.119.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 600.

Purpose and Summary

This chapter structures adoption services to be provided by HHS to place eligible children in adoptive arrangements that are safe, high quality, and in the best interest of the child. HHS accepts applications for adoption of children with special needs; application for adoption of a child without special needs is referred to a private child-placing agency, though exception may be made for relatives of children under the guardianship of HHS.

Applicants applying to adopt must participate in a preplacement assessment and home visit. A child will not be placed in an adoptive home until parental rights of the child's birth parents have been terminated. Preference is given to placing children from the same birth family together. A relative or other adult with a significant relationship with the child is given priority consideration. Foster parents will be given consideration for a child in their care.

HHS conducts activities designed to prepare the family and the child to make the transition to adoptive placement, including conducting transitional visits between the adoptive family and the child before placement in the home. Additionally, HHS makes monthly supervision visits from the time the child is placed with the family until finalization of the adoption occurs. HHS will not release identifying information from sealed adoption records unless approved to do so by the Director for purposes of treatment or research.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7378C**. A public hearing was held on the following date(s):

- February 14, 2024
- February 26, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 200 and adopt the following **new** chapter in lieu thereof:

TITLE XVI
ALTERNATIVE LIVING

CHAPTER 200
ADOPTION SERVICES

441—200.1(600) Definitions.

"Adoption" means a legal and social process through which a child becomes a member of a family into which the child was not born. Adoption provides the child the same rights, privileges and duties as a birth child.

"Adoption selection" means the process of making adoption placement decisions. The adoption selection committee team, tasked with making the final adoption placement decision, is made up of department of health and human service professionals. These professionals are brought together to review the child(ren)'s needs and the family's abilities to meet those needs, to make the best adoption match available and to ensure compliance with applicable adoption laws.

"Adoption selection committee team" means department staff members designated to assist in the adoption selection process. The adoption selection committee team consists of the adoption supervisor and a minimum of two adoption workers. The social work administrator (SWA) may elect to be part of the team if there is more than one family seeking to adopt the child, and the SWA may select additional department staff to serve as members of the team on a case-by-case basis.

"Adoption service" means a service directed toward children who are legally available for adoption, the birth family, prospective adoptive family, and adoptive family.

"Adoptive family" means an approved person or persons who have a child placed in their home and are being supervised prior to finalizing the adoption; or who have a child in their home who is legally adopted and entitled to the same benefits as a child born into the family.

"Adoptive home study" includes an assessment of the family's parental attributes and a written report stating approval or nonapproval of the family for adoptive placement of a child or children.

"Child study" includes a written description of the child, including strengths and needs; medical, mental, social, educational, placement and court history; a description of the child's relationships with the birth family, foster family, and significant others; a summary of the child's understanding and feeling about adoption; and recommendations as to the type of family that can best meet the child's needs.

"Child with special needs" means a child who meets one or more of the criteria set forth in 441—subrule 201.3(1).

"Court-ordered studies" means home studies ordered by a judge for the purpose of determining custody of a child or placement of a child for the purpose of adoption.

"Department" means the Iowa department of health and human services and includes the local offices of the department.

"Family-centered services" means services and other support intended to safely maintain a child with the child's family or with an adult relative; to safely and in a timely manner return a child to the home of the child's parent or relative; or to promote achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services include services adapted to the individual needs of a family regarding the specific services and other support provided to the child's family and the intensity and duration of service delivery and services intended to preserve a child's connections to the child's neighborhood, community, and family and to improve the overall capacity of the child's family to provide for the needs of the children in the family.

"Foster family adoption" means the adoption of a child by a licensed foster family that has cared for the child.

"Guardianship record" means a case record regarding a child, established and retained by the department, when the department is named guardian of the child by court order. The purpose of the guardianship record is to collect and maintain information about the child and the birth family, legal documents, and other information that will assist in fulfilling the responsibility of guardian.

"Life book" means a compilation of information about the child, including birth information, photographs of the child; placement history, including dates of placement, names of caretakers, and reasons for leaving the placement; relationships; school reports; social, medical, mental health developmental history; and awards received, important events, letters from significant persons, and other information that the child wishes to include. The life book will assist the child in dealing with separation and loss issues and provide background and genealogy data.

"Placement services" includes the activities and travel necessary to plan and carry out the placement of a child or children into the adoptive family.

"Postadoption services" includes those services that an adoptive family may access after the adoption is finalized to assist the family in coping with and resolving problems within the family.

"Postplacement services" includes the supervision, support and intervention necessary prior to finalization to assist in maintaining the adoptive placement.

"Preadoptive family" means an approved adoptive family with a child placed in the home for adoption whose adoption has not been finalized.

"Preparation of child" includes activities necessary to ready the child for placement into an adoptive family.

"Preparation of family" includes the activities necessary to assist the family in adding an adoptive child as a new member of their family.

"Preplacement visits" means contacts, activities, and visits between the child and adoptive family prior to the adoptive placement.

"Procedendo" means an order issued by the Iowa Supreme Court returning jurisdiction to the district court after a final appellate decision regarding an appeal.

"Recruitment and retention contractor" or *"contractor"* means the entity that contracts with the department statewide to recruit foster and adoptive parents, complete home studies, and perform activities to support and encourage retention of foster and adoptive parents, or any of its subcontractors.

"Relative" means an individual related to a child within the fourth degree of consanguinity or affinity, by marriage, or through adoption.

"Selection of family" means reviewing approved home studies to match a family's strengths with a specific child's needs.

441—200.2(600) Application. Persons wishing to apply to adopt a child through the department shall complete an Application for Adoption form. An application for adoption shall only be accepted for children who are under the guardianship of the department.

200.2(1) *Limitations.* The department and its contractor shall accept only applications for adoption of a special needs child. The department shall refer adoption applications for children without special needs to private child-placing agencies. Exceptions to this rule may be made for:

a. Relatives of a child under the guardianship of the department; or

b. Foster parents with whom the child has a significant relationship.

200.2(2) *Procedures.* Before a home study is completed, applicants shall:

a. Complete the Application for Adoption form, and

b. Ensure that the Physician's Report for Foster and Adoptive Parents form is completed by the applicant's family physician.

441—200.3(600) Adoption services. Adoption services shall include: adoptive home study, preparation of child, selection of family, preparation of family, preplacement visits, placement services, and postplacement services.

200.3(1) *Adoptive home study.* For applicants who apply to the department to adopt, the contractor shall prepare an adoptive home study through the following activities:

a. Family assessment. The family assessment shall include a minimum of two face-to-face interviews with the applicants and at least one face-to-face interview with each member of the household. At least one of the interviews shall take place at the applicant's home. The assessment of the prospective adoptive family shall include an evaluation of the family's ability to parent a special needs child or children including the following:

(1) Motivation for adoption and whether the family has biological children, adopted children or children in foster care currently placed in the home.

(2) Family's and extended family's attitude toward accepting an adopted child and plans for discussing adoption with the child.

(3) The attitude toward adoption of other people involved with the family in a significant way.

(4) Emotional maturity; marital history, including verification of marriages and divorces; assessment of marital relationship; and compatibility of the adoptive parents.

(5) Ability to cope with problems, stress, frustrations, crises, separation, and loss.

(6) Medical, mental, and emotional conditions that may affect the applicant's ability to parent a child; treatment history; status of treatment; and the evaluation of the treatment. Applicants and all household members must disclose any past or current mental health or substance abuse issues, or both. The department may require further documentation, evaluation, or both, to determine the suitability of the home.

(7) Willingness to accept a child who has medical problems (such as a child who is at risk for a communicable disease), intellectual disabilities, or emotional or behavioral problems. Ability to provide for the child's physical, medical, and emotional needs and commit to support a child's overall well-being.

(8) Description of biological children and previously adopted children, if any, including their attitudes toward adoption, relationship with others, and school performance.

(9) Capacity to give and receive affection.

(10) Statements from three references provided by the family and additional references the contractor may wish to contact.

(11) Attitudes of the adoptive applicants toward the birth parents and the reasons the child is available for adoption.

(12) Financial information, including the family's ability to provide for a child.

(13) Disciplinary practices that will be used.

(14) History of abuse involving family members, including how the abuse was addressed and how that history impacts the applicant's ability to be an adoptive parent.

(15) Assessment of, commitment to, and capacity to maintain other significant relationships.

(16) Recommendations for the number, age, sex, characteristics, and special needs of a child or children the family can best parent.

(17) The family's ability to anticipate and understand the special needs of an adopted child as the child gets older and how the family will manage those needs.

b. Record checks. Record checks are required for each applicant and for anyone who is 14 years of age or older living in the home of the applicant to determine whether any of those persons have founded child abuse reports, dependent adult abuse reports or criminal convictions or have been placed on the sex offender registry.

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the HHS Criminal History Record Check Form B;

3. On the Iowa sex offender registry;

4. On the child abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and

5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the HHS Criminal History Record Check Form B; and

3. On the Iowa sex offender registry.

(3) Out-of-state child abuse checks, dependent adult abuse checks and national criminal history checks may be completed on any adult living in the home of the applicant if the department has reason to do so.

(4) The department shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(5) The department shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has committed a crime in a state other than Iowa that would be a forcible felony if the crime would have been committed in Iowa, as set forth in Iowa Code section 600.8(2)*"b."*

c. Evaluation of record.

(1) If the applicant or anyone living in the home has a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the applicant shall not be approved to adopt unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(2) The evaluation shall be conducted according to procedures in 441—subrules 113.13(2) and 113.13(3) for applications for adoption through the department or procedures in 441—paragraph 108.9(4)*"e"* for applications for adoption through a child-placing agency.

d. Written report. The contractor shall prepare a written report of the family assessment, known as the adoptive home study, which shall be used to make recommendations on appropriate placement.

(1) The department shall notify the family of the decision using the Adoption Notice of Decision form.

(2) If the department does not approve the home study, the reasons shall be stated on the notice.

(3) The department shall provide the family a copy of the adoptive home study with the notification of approval or denial.

e. Preplacement assessment and home study update. A preplacement assessment and home study update is required if the adoptive home study was written more than two years previously, in accordance with Iowa Code section 600.8. The preplacement assessment and home study update shall be conducted by completion of the following:

(1) The child abuse, dependent adult abuse and criminal record checks shall be repeated, except for fingerprinting. If there are any founded abuses or convictions of crimes that were not evaluated in the previous home study, they shall be evaluated using the process set forth in paragraph 200.4(1)*"c."*

(2) One face-to-face visit shall be conducted with the approved adoptive family.

(3) The information in the approved adoptive home study shall be reassessed.

(4) An updated written report of the reassessment and adoptive home study shall be written, dated, signed by the worker and supervisor for the contractor, and a copy provided to the adoptive family.

(5) Families that are dually licensed to provide foster family care shall have their adoption approval date align with their foster home licensing date.

f. Procedure for foster parent adoptions. When a licensed foster parent applies for approval as an adoptive home, home study activities that have been completed within the previous year as part of a licensing study pursuant to 441—Chapter 113 need not be repeated.

g. Annual visits to the adoptive family home. The contractor shall complete a minimum of one visit each year in the homes of families approved to adopt.

(1) The visit shall not be waived.

(2) When a person aged 14 or older moves into the home, the agency shall perform checks on the Iowa central abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction or founded abuse report or is on the sex offender registry.

(3) Findings and observations of the visit shall be documented and provided to the department when the update is submitted.

(4) The department shall be notified within 30 days of any deficiencies noted or other concerns discovered that require corrective action.

200.3(2) *Preparation of child.* The department shall conduct specific activities designed to enable a child to make the transition to an adoptive placement or refer the child to the family-centered services contractor or other professionals. The activities shall include, but not be limited to:

a. Counseling regarding issues of separation, loss, grief, guilt, anger and adjustment to an adoptive family.

b. Assisting in the preparation or update of a life book.

c. Provision of age-appropriate information regarding community resources available, such as children's support groups, to assist the child in the transition and integration into the adoptive family.

d. Any appropriate evaluations or testing.

200.3(3) *Adoption selection process.* When the department is appointed guardian of a child(ren) following the termination of parental rights, the department has both the duty and the authority to select an adoptive placement for that child(ren). To fulfill this duty, the department must hold a conference during which the department selects an adoptive family for an identified child(ren). At the conference, known as an adoption selection staffing, each interested family with an approved adoption or interstate compact home study will be considered. The adoption selection committee will determine which family will be able to best meet the needs of the child(ren) going forward. The adoption selection process will value the best interest of the child(ren) above all else.

a. The selection committee will consider placement priority as outlined in Iowa Code section 232.117 and will consider the following:

(1) The adoptive family selected for a child or sibling group must be based on a thorough assessment of each child's current and potential developmental, medical, emotional, and educational needs.

(2) The child(ren)'s need for family connections will be prioritized. Separation of siblings should be avoided. When separation is necessary to protect the safety and well-being of one or more children in the sibling group, all reasonable efforts must be made to select a placement likely to maintain contact between siblings if such contact is in the best interests of each sibling.

(3) The adoptive family selected will be able to nurture and accept the child(ren) as a fully integrated member(s) of the family.

(4) Race, color, or national origin may not be considered in placement selections except when an Indian child is being placed pursuant to Iowa Code section 232.7 or chapter 232B.

(5) Placement decisions shall be made consistent with the best interests and special needs of the child, including the adoptive family's capacity and commitment to holistically supporting the child's development and well-being.

(6) A relative who is within the fourth degree of consanguinity shall be given consideration for selection as the adoptive family for a child who is legally available for adoption if the child has a significant relationship with the relative or the child is aged 14 or older and elects adoption by the relative.

(7) Foster parents shall be given consideration for selection as the adoptive family for a child in the foster parents' care who is legally available for adoption if the child has been in the foster parents' care for six months or longer or the child has a significant relationship with the family.

b. The adoption selection committee team should strive to complete the adoption selection process in 60 days or less absent special circumstances.

c. Upon reaching a decision, the adoption selection committee team staff will notify families of the decision made by the adoption selection committee team and will send placement notification to the

family not selected within two business days of the date all parties were initially notified, using the Adoption Notice of Decision form.

d. The selection of an adoptive family is not an appealable issue since a child continues to be under the guardianship of the department until an adoption is finalized.

200.3(4) *Preparation of family.* The contractor and the department shall conduct activities designed to enhance the family's readiness to accept the child or children into the family and strengthen the family's commitment to adopt. A referral may be made for family-centered services if needed. The activities shall include, but not be limited to:

a. Completion of required preservice training and the self-study course, "Universal Precautions in Foster and Adoptive Family Homes," before placement of a child. These training requirements apply to families who are adopting special needs children who are under the guardianship of the department.

(1) Relatives who have cared for a related child for at least six months and who have been selected to adopt that related child may have their participation in the preservice training waived by the service area manager or designee.

(2) The department may waive the preservice training requirement in whole or in part when the department finds that:

1. The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

2. There is good cause for the waiver based upon the circumstances of the child and the applicant.

(3) Applicants must retake the preservice training if the adoption approval process is not completed within 24 months after the preservice training is initially completed.

b. Discussion with family members regarding problems resulting from a child's separation, loss, grief, and anger due to the loss of the birth parents.

c. Provision of background information on the child and birth family, including a child study that includes experiences such as foster and adoption placements and other pertinent information and the child's life book.

d. Provision of information regarding the child's special needs and behavior patterns.

e. Provision of a description of the child's medical needs, including whether or not the child has a communicable disease.

f. Discussion of the impact that adding a new member or members to the family may have on all current family members.

g. Explanation of the state's subsidized adoption program.

h. Provision of information regarding the community resources that are available to assist the family, such as parent support groups, community supports including Medicaid funded supports and post adoption supports.

200.3(5) *Preplacement visits.* The department shall plan, conduct and assess the transitional visits between the adoptive family and the child or children before the adoptive placement of the child in the home.

200.3(6) *Placement services.* Placement services include the activities necessary to plan and carry out the placement of a child or children into the adoptive family.

Before placement of a child, the Agreement of Placement for Adoption form shall be signed by all parties.

200.3(7) *Postplacement services.* An adoptive family is eligible for postplacement services from the time a child is placed with the family until finalization of the adoption occurs. The department shall supervise the placement, provide ongoing support to the child and family, perform crisis intervention, and complete required reports. Assistance with behavioral interventions to strengthen the placement and prevent disruption may be provided through family-centered services.

a. Postplacement supervision shall focus on the following areas:

(1) Integration and interaction of the child or children with the family.

(2) Changes in the family functioning that may be due to the child's placement.

(3) Social and emotional adjustment of the child or children.

(4) Child's growth and development since placement with the adoptive family.

(5) Changes and adjustments that have been made in the family since the child's placement.

(6) Family's method of dealing with testing behaviors and discipline.

(7) Behavioral evidence of the degree of bonding that is taking place and the degree to which the child is becoming a permanent member of the adoptive family.

(8) School adjustment of a child who is attending a school.

(9) The behavioral needs of the child.

(10) The psychological and mental health needs of the child.

(11) Services and supports that will assist the child and family in the future.

b. At a minimum, the department shall make monthly home visits until the adoption is final. If the family is experiencing problems, the department shall make as many visits as are necessary to assess and support the placement.

c. The department shall prepare a written report based on the postplacement visits with recommendations regarding the finalization of the adoption and submit the report to the court before the hearing to consider granting a decree of adoption.

200.3(8) *Postadoption services.* The department's contractor shall provide postadoption services to families that are eligible for the department's adoption subsidy program in accordance with the contract. The goal of these services is to prevent adoption dissolution. The family may obtain additional support through community resources or support groups.

441—200.4(600) Termination of parental rights. The department shall not place a child in an approved adoptive home until parental rights of the child's birth parents have been terminated and guardianship assigned to the department. This would not apply to families and children participating in tribal customary adoption. If one or both birth parents are deceased, the worker shall provide the court with verification of the birth parents' death and the death shall be stated in the guardianship order. When the termination of parental rights is appealed by a birth parent, an adoptive placement may be made if the adoptive parents sign an adoptive placement agreement that includes an acknowledgment of the conditions of the placement should termination be overturned. However, the adoption may not be finalized until the appeal is withdrawn or a final decision regarding the appeal is reached and a procedendo issued.

441—200.5(600) Interstate placements. Interstate placement of a child into Iowa, or out of Iowa, shall follow interstate placement of child procedures in accordance with Iowa Code sections 232.158 through 232.166.

441—200.6(600) Requests for home studies.

200.6(1) *Court-ordered.* Court-ordered home studies for adoption of a child or children under the authority of the department shall be completed by the department's contractor.

200.6(2) *Interstate compact.* Requests for an adoptive home study through the interstate compact process shall be completed by the department's contractor.

441—200.7(600) Reasons for denial.

200.7(1) An individual or family shall be denied approval of an adoptive home study for any of the following reasons unless an evaluation determines that denial is improper:

a. Founded child abuse report or dependent adult abuse report.

b. Criminal conviction.

c. Documented concerns. Concerns may be documented in one or more of the following areas:

(1) Motivation to adopt.

(2) Child-rearing ability and practices.

(3) Emotional stability.

(4) Physical or mental health.

(5) Interpersonal relationships.

(6) Finances.

(7) Marital relationship.

(8) Other areas that may impact the applicant's ability to meet the needs of a child both at present and in the future.

d. Substance abuse. Verified substance use or abuse that prevents the family from adequately caring for the child shall mean denial of approval.

e. Lack of cooperation. If the individual or family fails to cooperate in providing the information needed to complete the preplacement assessment or home study, the application shall be denied.

200.7(2) Prospective adoptive families may appeal denial of approval of their home study.

441—200.8(600) Removal of child from preadoptive family. When the department determines that it is in the child's best interest to be removed from a preadoptive family, a Letter of Removal form shall be mailed to the family prior to removal. Removal of a child from a preadoptive family is not an appealable action.

441—200.9(600) Consents.

200.9(1) A request for consent to the adoption shall be submitted to the guardian for a child who is under the guardianship of the department and for whom finalizing an adoption is recommended. If the adoption is in the best interest of the child, the department shall sign a Consent to Adoption form, prior to a court hearing finalizing the adoption.

200.9(2) A consent to adopt may be rescinded by the department, by signing a Rescinding the Consent to Adoption form for any of the following reasons:

a. At the request of the adoptive family.

b. A founded child abuse report, dependent adult abuse report, accusation of child abuse, or dependent adult abuse pending determination of the report.

c. Conviction of a crime, or accusation of a crime, pending a court decision regarding the crime.

d. At the request of a child who is aged 14 or over and has reversed the decision regarding the adoption.

e. Other verified indications that the adoption is not in the best interest of the child.

441—200.10(600) Requests for access to information for research or treatment.

200.10(1) *Requests.* Any person seeking access to the department's sealed adoption records for the purpose or purposes set forth in Iowa Code section 600.16(1)*"c"* or 600.24(2) shall submit a request in writing to the department. Each request shall contain sufficient facts to establish that the information sought is necessary for conducting a legitimate medical research project, or for treating a patient in a medical facility.

200.10(2) *Process.* Upon receipt of a request for information sought in conducting a research project, the director or a designee shall review the request for information and make a decision to approve or deny the request based on the research to be conducted, the benefits of the research, the methodology, and the confidentiality measures to be followed. Upon a request for information for treating a patient in a medical facility, a decision regarding approval or denial shall be made by the director or designee based on the written information provided by a physician or the medical facility making the request. A requester shall be notified in writing of approval or denial and, if denied, reasons for denial given.

441—200.11(600) Requests for information for purposes other than research or treatment. Requests for information from department adoption records for purposes other than research or treatment shall be made on the department's website.

200.11(1) The department shall not release identifying information from sealed adoption records. Adult adoptees, adoptive parents, birth parents, siblings or descendants of an adopted person, or legal representatives of any of the above, shall be provided:

a. An adoption packet containing a sample affidavit for filing with the court,

b. Directions for filing the affidavit,

c. A list of county clerks of court,

d. The address of the bureau of vital statistics, and

e. Instructions on how to obtain the name of the Iowa county where the adoption was finalized, if necessary.

200.11(2) An adopted person who was a resident of the Annie Wittenmyer Home may receive nonidentifying information from Annie Wittenmyer records if the information is available.

These rules are intended to implement Iowa Code chapter 600.

[Filed 6/19/24, effective 8/14/24]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8111C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to the subsidized guardianship program

The Department of Health and Human Services (HHS) hereby rescinds Chapter 204, "Subsidized Guardianship Program," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 232D and sections 232.104(2) "d"(2), 232.104(6), 232.117, 234.6, 249A.4 and 633.552; 1996 Iowa Acts, chapter 203, section 15, subchapter 9; 2006 Iowa Acts, House File 2734, section 17, subsection 10; and Social Security Act Sections 472 and 473(d)(3).

Purpose and Summary

This chapter seeks to increase access to guardianship arrangements by implementing a subsidized guardianship program to provide financial assistance to guardians of eligible children who are in foster care but are not able to be adopted and are not able to return home. Eligible children include those aged ten years or older or part of a sibling group with a child aged ten years or older, who have been previously under the custody of HHS, with a documented permanency goal of guardianship or another planned permanent arrangement. Prospective guardians must be licensed, have a significant relationship with the child, and seek a long-term commitment.

Payments to approved guardians may include:

- Monthly maintenance payments with the maximum monthly rate made pursuant to the foster family care maintenance rates.
- Guardianship subsidy at a rate negotiated with the Department not to exceed the State's current daily basic foster care rate plus any eligible daily special needs allowance or sibling allowance.
- Reimbursement for nonrecurring expenses necessary to finalize a guardianship up to $2,000.
- Reimbursement for special services for the child, such as outpatient medical care, travel expenses for family therapy, or equipment required to accommodate a special need.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7359C**. A public hearing was held on the following date(s):

- February 14, 2024
- February 26, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 204 and adopt the following **new** chapter in lieu thereof:

CHAPTER 204
SUBSIDIZED GUARDIANSHIP PROGRAM

441—204.1(234) Definitions.

"Child" means either a person less than 18 years of age or a person 18, 19, or 20 years of age who meets one or more of the following conditions:

1. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma.
2. Is attending an instructional program leading to a high school equivalency diploma.
3. Has been identified by the director of special education of the area education agency as a child requiring special education as defined in Iowa Code section 256B.2(1).

"Guardianship subsidy" means a monthly payment to assist in covering the cost of room, board, clothing, and spending money for the child.

"Nonrecurring expenses" means reasonable and necessary guardianship fees, court costs, attorney fees, and other expenses that are directly related to finalizing the legal guardianship of a child. These expenses shall be limited to attorney fees, court filing fees and other court costs.

"Relative" means a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child.

"Sibling group" means at least two children who are whole or half-siblings. A sibling group may include adopted children who have a common parent.

441—204.2(234) Eligibility.

204.2(1) *General conditions of eligibility.* The guardian named in a permanency order under Iowa Code section 232.104(2)*"d"*(1) or chapter 232D for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

a. The child has a documented permanency goal of:

(1) Guardianship; or

(2) Another planned permanent living arrangement.

b. The child is either:

(1) Ten years of age or older and consents to the guardianship; or

(2) Part of a sibling group with a child aged ten or older.

c. The child has lived in continuous foster family care with the prospective guardian for the six months before initiation of the guardianship subsidy.

d. The prospective guardian is a licensed relative foster parent who has a significant relationship with the child and demonstrates a willingness to make a long-term commitment to the child's care.

(1) The guardian shall be a relative as defined in this chapter.

(2) Placement with that guardian must be in the best interest of the child. The best-interest determination must be documented in the case file.

e. A child who is part of a sibling group with a child ten years of age or older may be eligible for subsidy if all criteria are met. The following conditions for the younger sibling shall also be met:

(1) The sibling is placed as a foster child in the same prospective guardian home.

(2) The guardian and the department agree it is appropriate for guardianship to be granted for the sibling.

204.2(2) *Residency.* The subsidized guardianship applicant or recipient need not reside in Iowa.

204.2(3) *Unearned income.* The family or the guardian shall provide to the department documentation from the source of the child's unearned income.

204.2(4) *Other services.* Other services available to meet the needs of the child that are free of charge, such as federal, state, and local governmental programs, or private assistance programs, shall be explored and used prior to the expenditure of subsidized guardianship funds.

441—204.3(234) Application. Applications for the subsidized guardianship program may be made at any county office of the department.

204.3(1) *Application forms.* Application for a subsidized guardianship shall be made on the approved department form.

204.3(2) *Eligibility determination.* The determination of whether a child meets the eligibility requirements is made by the department. The proposed guardian shall be notified in writing of the decision of the department regarding the child's eligibility for the program and the amount of subsidy to be provided.

204.3(3) *Effective date.* The effective date of the guardianship subsidy payment shall be the date the guardianship order is signed if all other conditions of eligibility are met.

204.3(4) *Redetermination.* The department shall review the child's eligibility, the needs of the child and the child's unearned income every 12 months. Reviews may be done more often if needed due to the child's need for special services, revision of the subsidy amount because of the child's age, or a request for review by the guardian.

204.3(5) *Determination of eligibility after age 18.* The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive a subsidy to the age of 21 to complete high school or equivalency or due to the child's physical, intellectual, or mental health disability.

a. A disability shall be diagnosed by a physician, a qualified mental health professional or a qualified intellectual disability professional.

b. The diagnosed disability shall be current within one year prior to the child's eighteenth birthday.

c. Documentation of the child's diagnosed disability shall be provided by the child's guardian to the department.

d. Upon the child's reaching the age of 18, the subsidy may continue until the child completes courses leading to a high school diploma or equivalency or reaches the age of 21. Documentation of school enrollment and completion shall be provided by the child's guardian.

441—204.4(234) Negotiation of amount of subsidy.

204.4(1) *Subsidy agreement.* The amount of subsidy shall be negotiated between the department and the guardian and shall be based upon the needs of the child and the circumstances of the family.

204.4(2) *Amount of subsidy.* Each time negotiations are completed, the department and the guardian shall complete and sign a new Guardianship Subsidy Agreement.

a. The maximum monthly maintenance payment for a child in subsidized guardianship shall be made pursuant to the foster family care maintenance rates according to the age and special needs of the child as found in 441—subrule 156.6(4).

(1) The rate for the guardianship subsidy shall not exceed the state's current daily basic foster care rate plus any daily special needs allowance or sibling allowance for which the child is eligible, as found in 441—subrule 156.6(4).

(2) Reserved.

b. If the subsidized guardianship payment is less than the maximum amount allowed, the guardian may request an increase if there is a substantial change in the child's needs and circumstances that requires additional resources.

c. Guardianship payments shall continue if the guardian dies or becomes incapacitated and has named a successor guardian in the Guardianship Subsidy Agreement or in any amendments to the agreement.

204.4(3) *Placement outside of home.* If a child needs to be placed out of the guardian's home and the plan is for the child to return to the guardian within six months, a partial subsidy amount may be negotiated.

204.4(4) *Nonrecurring expenses.* The nonrecurring expenses necessary to finalize a guardianship shall not exceed $2,000.

204.4(5) *Special services.*

a. Reimbursement to the guardian family or direct payment made to a provider is limited to the following services:

(1) Outpatient individual or family services provided from a non-Medicaid provider only with approval from the department and when one of the following applies:

1. The services are not available from a Medicaid provider within a reasonable distance from the family.

2. The child and the family were receiving therapy or counseling from a non-Medicaid provider and it would not be in the child's best interest to disrupt the services.

3. Available Medicaid providers lack experience in working with foster, adopted, or blended families.

(2) Travel-related expenses including transportation, meals and lodging not covered by Medicaid for visitation or family therapy when the child is receiving Medicaid-paid services out of the home.

(3) Supplies and equipment as required by the child's special needs and unavailable through other resources.

(4) Funeral benefits at the amount allowed for a foster child in accordance with rule 441—156.8(234).

b. Any single special service and any special service delivered over a 12-month period costing $500 or more shall have prior approval from the department prior to expending program funds.

c. For all Medicaid-covered services, the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

441—204.5(234) Parental liability. These subsidy payments are considered foster care payments for purposes of child support recovery and as such create a support debt for the legally responsible parent or parents.

441—204.6(234) Determination of ongoing subsidy eligibility and suspension of subsidy payments.

204.6(1) Eligibility for continuation of guardianship subsidy shall be evaluated when the department has good cause to suspect the guardian is not providing financial support or is no longer legally responsible for the child. Good cause includes, but is not limited to, the following circumstances:

a. The child is placed in out-of-home care under Iowa Code chapter 232.

b. A person alleges the guardian is not providing financial support to the child.

c. A person other than the guardian is awarded legal custody of the child.

d. A person other than the guardian is appointed as the guardian of the child.

e. The child has applied for food assistance or other benefits.

f. The child has not resided with the guardian for the past 30 consecutive days.

g. The guardian is incarcerated.

h. The guardian is awaiting trial for criminal charges related to harm caused to a child in the home.

204.6(2) The department will contact the child's guardian via letter, telephone, or electronic or other means and document such efforts if an evaluation is determined to be necessary.

204.6(3) If such an evaluation occurs, the child's guardian shall provide documentation of support, including receipts, to the department upon request.

204.6(4) Upon completion of the department's evaluation of the child's continued eligibility for guardianship subsidy, the department will issue a written notice to the guardian documenting required ongoing actions by the guardian, including an expectation of continued cooperation by the guardian to provide documentation of ongoing support to the child at the request of the department.

204.6(5) The department shall suspend guardianship subsidy payments if the guardian refuses to cooperate with any department evaluation designed to determine legal responsibility for the child or to determine whether the guardian is providing financial support for the child.

204.6(6) Through a Notice of Decision, the department will notify the guardian that the guardianship subsidy payment will be suspended, modified, or terminated.

204.6(7) When the child has resided out of the guardian's home for 30 consecutive days, the department shall request a renegotiation of the Guardianship Subsidy Agreement with the guardian to reduce or suspend payments as agreed to by the guardian.

441—204.7(234) Termination of subsidy. A Guardianship Subsidy Agreement remains in effect until the subsidy is terminated. The subsidy shall terminate when any of the following occur, and a notice shall be sent that states the reason for the termination:

1. The child reaches the age of 18, unless the department determines that the subsidy may continue until the child reaches the age of 21 as specified by subrule 204.3(5).
2. The child marries or enlists in the military.
3. The child no longer lives with the guardian, except for placement outside the home as limited by subrule 204.4(3).
4. The relationship ends due to the death of the child.
5. The terms of the Guardianship Subsidy Agreement are concluded.
6. The guardian requests that the guardianship payment cease.
7. The department has determined the guardian is not providing financial support to the child.
8. The guardian fails to abide by the terms of the Guardianship Subsidy Agreement.
9. The guardianship case is terminated by court order.
10. The department funds for subsidized guardianship are no longer available.
11. Due to incapacity, the guardian can no longer discharge the responsibilities necessary to protect and care for the child, the guardianship has been or will be vacated, and a successor guardian was not named in the Guardianship Subsidy Agreement.
12. The death of the guardian when a successor guardian is not named in the Guardianship Subsidy Agreement (one in a single-parent family or both in a two-parent family).

441—204.8(234) Reinstatement of subsidy. Reinstatement of the subsidy shall be made when the subsidy was terminated at the guardian's request and the guardian has requested reinstatement.

441—204.9(234) Appeals. The guardian may appeal adverse determinations pursuant to 441—Chapter 7.

441—204.10(234) Medical assistance.

204.10(1) Children eligible for subsidy are entitled to medical assistance as defined in 441—Chapter 75. When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the guardian.

204.10(2) The funding source for medical assistance is based on the following criteria:

a. Children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.

b. Children from Iowa residing in another state shall receive medical assistance from the state of residence if eligible. Iowa shall provide medical assistance for children not eligible in their state of residence. Medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

c. Children from another state residing in Iowa shall continue to be covered by the other state's medical assistance unless the state has adopted the adoption assistance interstate compact and a contract between Iowa and the other state exists.

These rules are intended to implement Iowa Code section 234.6 and 2006 Iowa Acts, House File 2734, section 17, subsection 11.

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[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8085C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to organization and operation

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 1, "Organization and Operation," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 546.

Purpose and Summary

This chapter provides basic information on the structure and function of the professional licensing boards, formerly part of the Banking/Professional Licensing Bureau. These professional licensing boards are now a part of the Department of Inspections, Appeals, and Licensing. The professional licensing boards are responsible for the licensing and regulation of the following specified boards: Iowa Accountancy Examining Board, Architectural Examining Board, Engineering and Land Surveying Examining Board, Interior Design Examining Board, Landscape Architectural Examining Board, Real Estate Appraiser Examining Board and Real Estate Commission.

The professional licensing boards are dedicated to the protection of the public through responsible regulations. To achieve this goal and to ensure citizens of the state receive professional, competent, and safe services, each professional licensing board:

- Adopts rules and establishes standards;

- Examines, licenses, certifies or issues permits or licenses to practitioners;
- Sets standards for license renewal and continuing education;
- Investigates all complaints filed and considered alleged violations of its practice or title act and Iowa regulations;
- Conducts disciplinary hearings; and
- Actively monitors the compliance of licensees with orders issued by the Board.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7511C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

193—1.1(546) Purpose of Chapter 1. This chapter describes the organization and operation of the accountancy examining board, architectural examining board, engineering and land surveying examining

board, interior design examining board, landscape architectural examining board, real estate appraiser examining board, and real estate commission of the department of inspections, appeals, and licensing (hereinafter referred to as "professional licensing boards").

193—1.2(546) Scope of rules. The rules for the professional licensing boards are promulgated under Iowa Code chapter 17A and section 10A.103 and apply to all matters before the professional licensing boards. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various boards from any duty under the laws of this state.

193—1.3(546) Definitions.

"Administrator" means the director of the department of inspections, appeals, and licensing.

"Board" means an examining board or commission within the department of inspections, appeals, and licensing.

"Department" means the department of inspections, appeals, and licensing.

"License" means any license, registration, certificate, or permit that may be granted by one of the professional licensing boards.

"Licensee" means any person granted a license by one of the professional licensing boards.

"Person" means an individual, corporation, partnership, association, professional corporation, licensee, certificate holder, or registrant.

"Staff" means employees assigned to one of the professional licensing boards.

193—1.4(546) Purpose of the professional licensing boards. The professional licensing boards coordinate the administrative support for the following boards:

1.4(1) The engineering and land surveying examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 542B, Professional Engineers and Land Surveyors, and board rules published under agency number [193C] in the Iowa Administrative Code.

1.4(2) The accountancy examining board is an eight-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 542, Public Accountants, and board rules published under agency number [193A] in the Iowa Administrative Code.

1.4(3) The real estate commission is a seven-member commission appointed by the governor and confirmed by the senate. The commission administers Iowa Code chapters 543B, Real Estate Brokers and Salespersons; 543C, Sales of Subdivided Land Outside of Iowa; and 557A, Time-Shares; and commission rules published under agency number [193E] in the Iowa Administrative Code.

1.4(4) The architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544A, Licensed Architects, and board rules published under agency number [193B] in the Iowa Administrative Code.

1.4(5) The landscape architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544B, Landscape Architects, and board rules published under agency number [193D] in the Iowa Administrative Code.

1.4(6) The real estate appraiser examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 543D, Real Estate Appraisals and Appraisers, and board rules published under agency number [193F] in the Iowa Administrative Code.

1.4(7) The interior design examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544C, Registered Interior Designers, and board rules published under agency number [193G] in the Iowa Administrative Code.

193—1.5(546) Responsibilities of the boards. All of the boards retain the powers granted them pursuant to the chapters in which they are created, except for budgetary and personnel matters. Each board will adopt rules pursuant to Iowa Code chapter 17A. Decisions by each board are final agency actions for purposes of Iowa Code chapter 17A.

193—1.6(546) Responsibilities of the administrator.

1.6(1) The following are responsibilities of the administrator:

a. To make rules pursuant to Iowa Code chapter 17A to implement board duties except to the extent that rulemaking authority is vested in the boards in the bureau.

b. To carry out policy-making and enforcement duties assigned to the boards under the law.

c. To hire, allocate, develop, and supervise members of the staff employed to perform the duties assigned to the boards, including designating staff to act as the executive officer, who may be referred to as the board administrator, for and lawful custodian of the records of each board in the bureau.

d. To coordinate the development of an annual budget for the boards.

e. To supervise and direct personnel and other resources to accomplish duties assigned by law.

f. To authorize expenditures from any appropriation or fund established on behalf of the boards.

1.6(2) Except to the extent that decision-making authority is vested in the boards or other body, decisions of the administrator are final agency actions pursuant to Iowa Code chapter 17A.

1.6(3) Except to the extent otherwise vested in the boards, the administrator has the authority to establish fees assessed to the regulated industry.

193—1.7(546) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the boards, an individual board is the principal custodian of the individual board's own orders, statements of law or policy issued by the individual board, legal documents, and other public documents on file.

Any interested party may examine all public records promulgated or maintained by the boards during regular business hours.

193—1.8(272C,542,542B,543B,544A,544B,544C) Applicant contact information. In addition to the mailing address(es) that need to be provided in accordance with the individual board's rules, applicants of the boards need to provide a telephone number and, if applicable, an email address. The boards will honor the "safe at home" address issued by any state's program and protective orders in domestic abuse proceedings or otherwise issued to preserve confidentiality of a person's physical location.

193—1.9(272C,542,542B,543B,544A,544B,544C) Newsletter.

1.9(1) The administrator or administrator's designee may publish or contract with a vendor to publish a newsletter as a nonpublic forum to disseminate official information related to the regulated professions. This official information may include statutory requirements, statutory changes, rules, rule changes, proposed or pending rule changes, licensing requirements, license renewal procedures, board action, board interpretative rulings or guidelines, office procedures, disciplinary action, ethical or professional standards, education requirements, education opportunities (prelicense education, continuing education, and professional development), board business, board meetings, board news, and matters related thereto.

1.9(2) The boards may notify licensees about matters such as license renewal in the newsletter.

193—1.10(272C,542,542B,543B,544A,544B,544C) Applications. Unless otherwise regulated by an individual board's rules, abandoned applications are deemed withdrawn. An application is abandoned if the applicant has not accessed or modified the application through the electronic licensing database within the preceding six months.

These rules are intended to implement Iowa Code section 10A.506.

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ARC 8086C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to allocation of disciplinary fees and costs

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 2, "Allocation of Disciplinary Fees and Costs," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This chapter sets forth fees that may be assessed to a licensee for disciplinary hearings. The rules outline how the fees are paid and what the fees may be applied toward in accordance with Iowa Code chapter 272C.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7512C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
ALLOCATION OF DISCIPLINARY FEES AND COSTS

193—2.1(272C) Allocation of disciplinary fees and costs.

2.1(1) Definition.

"Board(s)" includes the professional licensing boards as defined in 191—Chapter 1.

2.1(2) All hearing fees and costs assessed by the boards will be paid directly to the department and held in a separate fund administered by the administrator.

2.1(3) The administrator will distribute moneys held in this fund during the fiscal year in which those moneys are paid. Distributions from the fund are made upon the request of a board and at the sole discretion of the administrator. A distribution received by a board under this chapter will be used only for expenditures related to disciplinary hearings.

2.1(4) The administrator will consider the following factors in exercising discretion as to whether to distribute funds to a requesting board:

a. The remaining funds in the board's allocated appropriation for disciplinary hearings in that fiscal year.

b. The number of disciplinary hearings the board has scheduled for the remainder of that fiscal year; the nature and seriousness of those hearings; and the public health, safety, and welfare interests implicated by those hearings.

c. Whether the board has adopted and implemented hearing cost recovery rules.

2.1(5) The administrator will distribute a percentage of the remaining fees and costs to each board.

2.1(6) The fees and costs allocated back to the individual professional licensing boards will be considered repayment receipts as defined in Iowa Code section 8.2. The fees and costs allocated back to each professional board will be applied to the costs incurred by each profession for prosecution of contested cases that could result in disciplinary action.

This rule is intended to implement Iowa Code section 272C.6(6).

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ARC 8087C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to vendor appeals

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 3, "Vendor Appeals," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 546.

Purpose and Summary

This rulemaking specifies the process for vendors to appeal a bid decision when a formal bidding process is not handled by the Department of Administrative Services. This rulemaking provides a uniform process for all boards in the legacy professional licensing and regulation bureau.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7513C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
VENDOR APPEALS

193—3.1(546) Purpose. This chapter outlines a uniform process for vendor appeals for all professional licensing boards as defined in 191—Chapter 1. The process is applicable only when board services are acquired through a formal bidding procedure not handled by the department of administrative services or the office of the chief information officer.

193—3.2(546) Vendor appeals. Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the board may appeal by filing a written notice of appeal with the board within five days of the date of the award, exclusive of Saturdays, Sundays, and legal state holidays. A written notice may be filed by email. The notice of appeal needs to state the vendor's completed legal name, street address, telephone number, email address, and the specific grounds upon which the vendor challenges the board's award, including the legal authority, if any, and be received by the board within the time frame specified to be considered timely. The notice of appeal commences a contested case.

193—3.3(546) Procedures for vendor appeals. Each board's procedures for licensee disciplinary hearings are applicable, except as provided in these rules.

3.3(1) Upon receipt of a notice of vendor appeal, the board will issue a written notice of the date, time and location of the appeal hearing to both the aggrieved vendor or vendors and the successful vendor. Service of the written notice of hearing will be sent to the email address provided by the appellant unless the appellant specifically requests that notice be sent by certified mail. A hearing will be held within 60 days of the date the notice of appeal was received by the board.

3.3(2) All hearings are open to the public.

3.3(3) Discovery requests, if any, will be served by the parties within ten days of the filing of the notice of appeal. Discovery responses or objections are due at least seven business days prior to hearing.

3.3(4) At least three business days prior to the hearing, the parties will exchange witness and exhibit lists. The parties will be limited at hearing to the witnesses and exhibits timely disclosed unless the board finds good cause to allow additional witnesses or exhibits at hearing.

3.3(5) The hearing, at the option of the board or administrative law judge, may be conducted in person, by telephone, or virtually. When not conducted in person, all exhibits will be delivered to the board or administrative law judge no less than two business days prior to the hearing.

3.3(6) Oral proceedings will be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand will bear the costs. Copies of tapes of oral proceedings or transcripts of certified shorthand reporters will be paid for by the requester.

3.3(7) Any party appealing the issuance of a notice of award may petition for stay of the award pending its review. The petition will be filed with the notice of appeal and state the reasons justifying a stay. The filing of the petition for stay does not automatically stay the award. The board may grant a stay when it concludes that substantial legal or factual questions exist as to the propriety of the award, the party will suffer substantial and irreparable injury without the stay, and the interest of the public or licensees will not be significantly harmed. A stay may be vacated at any time upon application by any party or the board on its own motion with prior notice to all parties.

3.3(8) The record of the contested case includes all materials specified in Iowa Code section 17A.12(6) and any other relevant procedural documents regardless of their form.

3.3(9) The board or administrative law judge may request the parties to submit proposed findings and conclusions or briefs.

3.3(10) Any request for continuance needs to be in writing, specifying the grounds, and filed no later than seven business days prior to hearing.

3.3(11) Requests for rehearing need to be made to the board within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available, an obvious mistake is corrected, or when the decision is not necessary to exhaust administrative remedies.

3.3(12) Judicial review of the board's final decision may be sought in accordance with the contested case provisions of Iowa Code section 17A.19.

193—3.4(546) Procedures for board referral to an administrative law judge. The board, in its discretion, may refer a vendor appeal for hearing before a qualified administrative law judge. The hearing procedures will be substantially the same, but the ruling of an administrative law judge acting as the sole presiding officer will constitute a proposed decision. Board review of a proposed decision will be according to Iowa Code section 17A.15(2) and this chapter. Nothing in this rule will prevent the board from hearing a vendor appeal with the assistance of an administrative law judge. This rule merely authorizes an alternative procedure. The appealing vendor may also request that an administrative law judge act as presiding officer pursuant to 193—subrule 7.10(2).

3.4(1) The proposed decision will become the final decision of the board 14 days after mailing of the proposed decision, unless prior to that time a party submits an appeal of the proposed decision, or the board seeks review on its own motion.

3.4(2) Notice of an appeal for review of a proposed decision or notice of the board's own review will be mailed to all parties by the board's executive officer. Within 14 days after mailing of the notice of appeal or the board's review, any party may submit to the board exceptions to and a brief in support of or in opposition to the proposed decision, copies of which will be mailed by the submitting party to all other parties to the proceeding. The board's executive officer will notify the parties if oral argument will be heard and specify whether oral argument will be heard in person, by telephone or virtually. The executive officer will schedule the board's review of the proposed decision not less than 30 days after mailing of the notice of appeal or the board's own review.

3.4(3) Failure to appeal a proposed decision will preclude judicial review unless the board reviews on its own motion.

3.4(4) Review of a proposed decision will be based on the record and limited to the issues raised in the hearing. The issues will be specified in the notice of appeal of a proposed decision. The party requesting the review will be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.

3.4(5) Each party will have the opportunity to file exceptions and present briefs. The executive officer may set deadlines for the submission of exceptions or briefs. If oral argument will be held, the executive officer shall notify all parties of the date, time and location at least ten days in advance.

3.4(6) The board will not receive any additional evidence, unless it grants an application to present additional evidence. Any such application will be filed by a party at least five business days in advance of oral argument. Additional evidence will be allowed only upon a showing that it is material to the outcome and that there were good reasons for failure to present it at hearing. If an application to present additional evidence is granted, the board will order the conditions under which it shall be presented.

3.4(7) The board's final decision will be written and may incorporate all or part of the proposed decision.

These rules are intended to implement Iowa Code section 546.10.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8088C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to social security numbers and proof of legal presence

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 4, "Social Security Numbers and Proof of Legal Presence," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 546 and sections 252J.8(1) and 272D.8(1) and 8 U.S.C. 1621 and 42 U.S.C. 666(a)(13).

Purpose and Summary

This chapter outlines the process for applicants and licensees to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621). This chapter also establishes the requirement that a licensee provide a social security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1) and 272D.8(1) for the purposes of collecting child support and debts owed to the State of Iowa.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7514C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE

193—4.1(546) Purpose. This chapter outlines a uniform process for applicants and licensees of the professional licensing boards as defined in 191—Chapter 1 to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621). This chapter also addresses the requirement that a license applicant provide a social security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1) and 272D.8(1) for purposes including the collection of child support obligations and debts owed to the state of Iowa.

193—4.2(546) Applicability.

4.2(1) Applicants and licensees who are U.S. citizens or permanent resident aliens may be requested to produce evidence of their lawful presence in the United States as a condition of initial licensure or license renewal. Acceptable evidence (List A) is outlined in subrule 4.3(1).

4.2(2) Applicants and licensees residing in the United States, other than those described in subrule 4.2(1) above, may be requested to provide evidence of lawful presence in the United States at the time of initial licensure and with every subsequent renewal. Acceptable evidence (List B) is outlined in subrule 4.3(2).

4.2(3) Evidence is not required by foreign national applicants or licensees who are not physically present in the United States.

193—4.3(546) Acceptable evidence. The professional licensing boards accept as proof of lawful presence in the United States documents outlined in Lists A and B below. The professional licensing boards will not routinely retain the evidence sent and will not return the evidence once submitted. Documents may be retained in computer "imaged" format. Legible copies will be accepted. Original documents will not be necessary unless a question arises concerning the documentation submitted.

4.3(1) *List A—acceptable documents to establish U.S. citizenship.*

a. A copy of a birth certificate issued in or by a city, county, state, or other governmental entity within the United States or its outlying possessions.

b. U.S. Certificate of Birth Abroad (FS-545, DS-135) or a Report of Birth Abroad of U.S. Citizen (FS-240).

c. A birth certificate or passport issued from:

(1) Puerto Rico, on or after January 13, 1941.

(2) Guam, on or after April 10, 1989.

(3) U.S. Virgin Islands, on or after February 12, 1927.

(4) Northern Mariana Islands after November 4, 1986.

(5) American Samoa.

(6) Swain's Island.

(7) District of Columbia.

d. A U.S. passport (expired or unexpired).

e. Certificate of Naturalization (N-550, N-57, N-578).

f. Certificate of Citizenship (N-560, N-561, N-645).

g. U.S. Citizen Identification Card (I-79, I-197).

h. An individual Fee Register Receipt (Form G-711) that shows that the person has filed an application for a New Naturalization or Citizenship Paper (Form N-565).

i. Any other acceptable document that establishes a U.S. place of birth or indicates U.S. citizenship.

4.3(2) *List B—acceptable documents to establish alien status.*

a. An alien lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). References to the INA in this rule are to the INA as amended to November 1, 2023. Evidence includes:

(1) INS Form I-551 (Alien Registration Receipt Card commonly known as a "green card"); or

(2) Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.

b. An alien who is granted asylum under Section 208 of the INA. Evidence includes:

(1) INS Form I-94 annotated with stamp showing grant of asylum under Section 208 of the INA.

(2) INS Form I-668B (Employment Authorization Card) annotated "274a.12(a)(5)."

(3) INS Form I-776 (Employment Authorization Document) annotated "A5."

(4) Grant Letter from the Asylum Office of INS.

(5) Order of an immigration judge granting asylum.

c. A refugee admitted to the United States under Section 207 of INA. Evidence includes:

(1) INS Form I-94 annotated with stamp showing admission under Section 207 of the INA.

(2) INS Form I-668B (Employment Authorization Card) annotated "274a.12(a)(3)."

(3) INS Form I-766 (Employment Authorization Document) annotated "A3."

(4) INS Form I-571 (Refugee Travel Document).

d. An alien paroled into the United States for at least one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA.

e. An alien whose deportation is being withheld under Section 243(h) of the INA (as in effect immediately prior to September 30, 1996) or Section 241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-2-8). Evidence includes:

(1) INS Form I-668 (Employment Authorization Card) annotated "271a.12(a)(10)."

(2) INS Form I-766 (Employment Authorization Document) annotated "A10."

(3) Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.

f. An alien who is granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980. Evidence includes:

(1) INS Form I-94 with stamp showing admission under Section 203(a)(7) of the INA.

(2) INS Form I-668 (Employment Authorization Card) annotated "274a.12(a)(3)."

(3) INS Form I-776 (Employment Authorization Document) annotated "A3."

g. An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980). Evidence includes:

(1) INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card") with the code CU6, CU7, or CH6.

(2) Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with code CU6 or CU7.

(3) INS Form I-94 with stamp showing parole as "Cuban/Haitian Entrant" under Section 212(d)(5) of the INA.

h. An alien paroled into the United States for less than one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 showing this status.

i. An alien who has been declared a battered alien. Evidence includes INS petition and supporting documentation.

j. Any other documentation acceptable under the INA.

193—4.4(252J,272D,546) Social security number disclosure.

4.4(1) An individual applying for a license from a professional licensing board will disclose the individual's social security number on the application form unless:

a. The applicant demonstrates to the satisfaction of the board that the applicant does not possess and is not eligible for a social security number, or

b. The applicant demonstrates or attests that the applicant is in the process of applying for a social security number and will provide such number within 60 days of the date on which the applicant submits the application to the board. The license of an applicant who is licensed pursuant to this subrule may be revoked for failure to provide a valid social security number within 60 days of the date on which the application was filed.

4.4(2) An applicant who does not possess a social security number and is not eligible for a social security number will need to demonstrate lawful presence in the United States, if applicable, and provide government-issued photo identification as needed to verify identity. If circumstances change and the applicant or licensee later attains a social security number, the applicant or licensee will disclose the social security number to the board within 30 days of the date on which the social security number is issued.

These rules are intended to implement Iowa Code chapter 546.

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ARC 8089C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to waivers

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 5, "Waivers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 546.

Purpose and Summary

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The rulemaking rescinds the former Bureau's chapter on waivers so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses waivers in 481—Chapter 6.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7515C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193—Chapter 5**.

[Filed 6/13/24, effective 8/14/24]
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ARC 8090C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to investigatory subpoenas

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 6, "Investigatory Subpoenas," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C, 542, 542B, 543B, 543D, 544A, 544B and 544C.

Purpose and Summary

This rulemaking provides the public and licensees with information about the professional licensing boards' investigatory subpoena authority and procedures. The boards utilize investigatory subpoenas to gather information and investigate allegations against a licensee reported to the board.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7516C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
INVESTIGATORY SUBPOENAS

193—6.1(17A,272C,542,542B,543B,543D,544A,544B,544C) Investigatory subpoena authority. Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), professional licensing boards, as defined in 191—Chapter 1, have the authority to issue subpoenas to compel the production of professional records, books, papers, correspondence and other records that are deemed necessary as evidence in connection with the investigation of a licensee disciplinary proceeding, or otherwise necessary for the board to determine whether to commence a contested case. When such an investigation involves licensee discipline, the board may subpoena such evidence whether or not privileged or confidential under law. To ensure consistency in procedure, all boards will issue investigatory subpoenas according to the

uniform procedures set forth in rule 193—6.2(17A,272C,542,542B,543B,543D,544A,544B,544C). Given the range of investigative options otherwise utilized by each board, additional detail on investigative procedures is provided separately in each board's individual rules.

193—6.2(17A,272C,542,542B,543B,543D,544A,544B,544C) Investigatory subpoena procedures.

6.2(1) The board's executive officer or designee may, upon the written request of a board investigator or on the officer's own initiative, subpoena books, papers, records, and other real evidence that the officer determines are necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions need to be satisfied prior to the issuance of the subpoena:

a. The nature of the complaint reasonably justifies the issuance of a subpoena;

b. Adequate safeguards have been established to prevent unauthorized disclosure;

c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and

d. The patient was notified and an attempt was made to secure an authorization from the patient for release of the records at issue.

6.2(2) A written request for a subpoena or the executive officer's written memorandum in support of the issuance of a subpoena will contain the following:

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

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

c. An explanation of the reasons that the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and

d. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 6.2(1) have been satisfied.

6.2(3) Each subpoena will contain the following:

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

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

c. The date, time and location for production, or inspection and copying;

d. The time within which a motion to quash or modify the subpoena needs to be filed;

e. The signature, address and telephone number of the executive officer or designee;

f. The date of issuance;

g. A return of service.

6.2(4) Any person who is aggrieved or adversely affected by compliance with the subpoena who desires to challenge the subpoena needs to file a motion with the board to quash or modify the subpoena within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days. The motion will describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

6.2(5) Upon receipt of a timely motion to quash or modify a subpoena, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

6.2(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge the ruling needs to appeal the ruling to the board in accordance with the procedure applicable to intra-agency appeals of proposed decisions provided that all of the time frames are reduced by one-half.

6.2(7) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the person is notified that the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

These rules are intended to implement Iowa Code chapters 17A, 272C, 542, 542B, 543B, 543D, 544A, 544B, and 544C.

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ARC 8091C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to contested cases

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 7, "Contested Cases," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 272C, and 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C, and 546.

Purpose and Summary

This rulemaking provides procedures for contested case hearings, including time requirements for taking action on a contested case; direction on the service of the statement of charges and notice of hearing, as well as the required contents of the statement of charges and notice of hearing; and the discovery process, including issuance of subpoenas, the handling of pretrial motions, and conferences and procedures for the hearings. The purpose of this rulemaking is to provide the licensee an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. Contested cases help ensure that the public is protected and outline due process for alleged bad actors.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7517C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
CONTESTED CASES

193—7.1(17A,542,542B,543B,543D,544A,544B,544C) Definitions. Except where otherwise specifically defined by law:

"Board" includes the professional licensing boards as defined in 191—Chapter 1.

"Contested case" means any adversary proceeding before a board to determine whether disciplinary action should be taken against a licensee under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C; an adversary proceeding against a nonlicensee pursuant to Iowa Code section 542.14, 542B.27, 543B.34, 543D.21, or 544A.15; or any other proceeding designated a contested case by any provision of law, including but not limited to adversary proceedings involving license applicants and the reinstatement of a suspended, revoked or voluntarily surrendered license.

"Issuance" means the date of mailing of a decision or order, or date of delivery if service is by other means, unless another date is specified by rule or in the order.

"License" means a license, registration, certificate, permit or other form of practice permission required or authorized by Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

"Party" means the state, as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

"Presiding officer" means the board and, when applicable, a panel of board members or an administrative law judge assigned to render a proposed decision in a nondisciplinary contested case.

"Probable cause" means a reasonable ground for belief in the existence of facts that would support a specified proceeding under applicable law and rules.

"Quorum" means a majority of the members of the board. Action may generally be taken upon a majority vote of board members present at a meeting who are not disqualified, although discipline may only be imposed by a majority vote of the members of the board who are not disqualified and, for the engineering and land surveying examining board, only upon an affirmative vote of at least five members of the board.

193—7.2(17A,542,542B,543B,543D,544A,544B,544C,546) Scope and applicability of the Iowa Rules of Civil Procedure. This chapter applies to contested cases conducted by all boards in the bureau. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings. However, upon application by a party, the board

may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

193—7.3(17A,272C) Commencement of a contested case and probable cause. A contested case in a disciplinary proceeding is commenced by the filing and service of a statement of charges and notice of hearing. A contested case in a nondisciplinary proceeding is commenced by the filing and service of a notice of hearing. A contested case may only be commenced by the board upon a finding of probable cause to do so by a quorum of the board.

193—7.4(17A,272C) Informal settlement. The board, board staff or a board committee may attempt to informally settle a disciplinary case before filing a statement of charges and notice of hearing. If the board and the licensee agree to a settlement of the case, a statement of charges will be filed simultaneously with a consent order. The statement of charges and consent order may be separate documents or may be combined in one document. By electing to sign a consent order, the licensee waives all rights to a hearing and all attendant rights. The consent order will have the force and effect of a final disciplinary order entered in a contested case and will be published as provided in rule 193—7.30(17A,272C). Matters not involving licensee discipline that may culminate in a contested case may also be settled through consent order. Procedures governing settlement after notice of hearing is served are described in rule 193—7.42(546,272C).

193—7.5(17A) Statement of charges. The statement of charges will set forth the acts or omissions with which the respondent is charged including the statute(s) and rule(s) that are alleged to have been violated and will be in sufficient detail to enable the preparation of the respondent's defense. The statement of charges will be incorporated within or attached to the notice of hearing. The statement of charges and notice of hearing are public records open for public inspection under Iowa Code chapter 22.

193—7.6(17A,272C) Notice of hearing.

7.6(1) *Contents of notice of hearing.* Unless the hearing is waived, all contested cases will commence with the service of a notice of hearing fixing the time and place for hearing. The notice, including any incorporated or attached statement of charges, will contain those items specified in Iowa Code section 17A.12(2); Iowa Code section 17A.18(3), if applicable; and the following:

a. A statement of the time, place, and nature of the hearing;

b. A statement of the legal authority and jurisdiction under which the hearing is to be held;

c. A reference to the particular sections of the statutes and rules involved;

d. A short and plain statement of the matters asserted;

e. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the respondent's counsel where known;

f. Reference to the procedural rules governing conduct of the contested case proceeding;

g. Reference to the procedural rules governing informal settlement after charges are filed;

h. Identification of the board or a panel of board members as the presiding officer, or statement that the presiding officer will be an administrative law judge from the department of inspections, appeals, and licensing;

i. If applicable, notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11 and rule 193—7.10(17A,272C), that the presiding officer be an administrative law judge from the department of inspections, appeals, and licensing;

j. A statement requiring or authorizing the respondent to submit an answer of the type specified in rule 193—7.9(17A,272C) within 20 days after service of the notice of hearing;

k. If applicable, notification of the licensee's right to request a closed hearing in a licensee disciplinary proceeding;

l. Information on who to contact if, because of a disability, auxiliary aids or services are needed for a party to participate in the matter;

m. If applicable, the date, time, and manner of conduct of a prehearing conference under rule 193—7.21(17A,272C); and

n. The mailing address and email address for filing with the board and notice of the option of email service as provided in subrule 7.17(6).

7.6(2) *Service of notice of hearing.* Service of notice of hearing on a licensee to begin a contested case that may affect the licensee's continued licensure, such as a licensee disciplinary case or challenge to the renewal of a license, will be made by personal service as in civil actions, by restricted certified mail, return receipt requested, or by the acceptance of service by the licensee or the licensee's duly authorized legal representative. Service of the notice of hearing to begin all other contested cases may additionally be made by certified mail, return receipt requested.

193—7.7(13,272C) Legal representation.

7.7(1) Every statement of charges and notice of hearing prepared by the board will be reviewed and approved by the office of the attorney general, which will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest.

7.7(2) The respondent or applicant may be represented by an attorney. The attorney will file an appearance in the contested case. If the attorney is not licensed to practice law in Iowa, the attorney will comply with Iowa Court Rule 31.14. Business entities may be represented in a contested case by a nonlawyer partner, officer, director, shareholder, member, director, or other owner or manager.

193—7.8(17A) Requests for contested case proceeding.

7.8(1) Any person claiming an entitlement to a contested case proceeding will file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board action in question.

7.8(2) The request for a contested case proceeding will state the name and address of the requester; identify the specific disputed board action; describe issues of material fact in dispute; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved. If the board grants the request, the board will issue a notice of hearing. If the board denies the request, the board will issue a written order specifying the basis for the denial.

193—7.9(17A,272C) Form of answer. Unless otherwise provided in the notice of hearing, the answer may include any additional facts or information that the respondent deems relevant to the issues and that may be of assistance in the ultimate determination of the case, including explanations, remarks or statements of mitigating circumstances.

193—7.10(17A,272C) Presiding officer.

7.10(1) The presiding officer in all licensee disciplinary contested cases will be the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code sections 272C.6(1) and 272C.6(2). When board members act as presiding officer, they will conduct the hearing and issue either a final decision or, if a quorum of the board is not present, a proposed decision. As provided in subrule 7.10(4), the board may be assisted by an administrative law judge when the board acts as presiding officer.

7.10(2) In cases that do not pertain to licensee discipline, the board may act as presiding officer or may notify the parties that an administrative law judge will act as presiding officer at hearing and issue a proposed decision. The use of an administrative law judge as presiding officer is only an option in cases that do not pertain to licensee discipline because only the board may conduct licensee discipline hearings pursuant to Iowa Code section 272C.6. Any party to a nondisciplinary case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing will need to file a written request within 20 days after service of a notice of hearing that identifies the presiding officer as the board. The board may deny the request only upon a finding that one or more of the following apply:

a. Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The case involves a disciplinary hearing to be held by the board pursuant to Iowa Code section 272C.6.

d. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

e. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

f. Funds are unavailable to pay the costs of an administrative law judge and an interboard appeal.

g. The request was not timely filed.

h. The request is not consistent with a specified statute.

7.10(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is granted, the administrative law judge assigned to act as presiding officer and issue a proposed decision in a nondisciplinary contested case will have a J.D. degree unless waived by the board.

7.10(4) The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, or drafting the written decision for review by the board or board panel.

7.10(5) All rulings by an administrative law judge who acts either as presiding officer or assistant to the board are subject to appeal to the board pursuant to rules 193—7.31(17A) and 193—7.32(17A). A party will need to timely seek intra-agency appeal of prehearing rulings or proposed decisions in order to exhaust adequate administrative remedies. While a party may seek immediate board or board panel review of rulings made by an administrative law judge when sitting with and acting as an aid to the board or board panel during a hearing, such immediate review is not required to preserve error for judicial review.

7.10(6) Unless otherwise provided by law, board members have the powers of and will comply with the provisions of this chapter that apply to presiding officers when reviewing a proposed decision of a panel of the board or an administrative law judge.

193—7.11(17A) Time requirements.

7.11(1) Time will be computed as provided in Iowa Code section 4.1(34).

7.11(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

193—7.12(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

193—7.13(17A,272C) Telephone and electronic proceedings. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone or other electronic means. Parties will disclose at or before the prehearing conference if any witness will be testifying by telephone or other electronic means. Objections, if any, will be filed with the board and served on all parties at least three business days in advance of hearing.

193—7.14(17A) Disqualification.

7.14(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated, in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship who (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

7.14(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information that is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case. A person voluntarily appearing before the board or a committee of the board waives any objection to a board member or board staff both participating in the appearance and later participating as a decision maker or aid to the decision maker in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrule 7.28(9).

7.14(3) In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit and provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

7.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.14(1), the party will file a motion supported by an affidavit pursuant to Iowa Code sections 17A.11(3) and 17A.17(7). The motion will need to be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

7.14(5) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but will need to establish the grounds by the introduction of evidence into the record.

7.14(6) A motion to disqualify a board member or other person will first be directed to the affected board member or other person for determination. If the board member or other person determines that disqualification is appropriate, the board member or other person will withdraw from further participation in the case. If the board member or other person determines that withdrawal is not required, the presiding officer will promptly review that determination, provided that, if the person at issue is an administrative law judge, the review will be by the board. If the presiding officer determines that disqualification is appropriate, the board member or other person will withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer will enter an order to that effect. A party

asserting disqualification may seek an interlocutory appeal under rule 193—7.31(17A), if applicable, and seek a stay under rule 193—7.34(17A).

193—7.15(17A) Consolidation—severance.

7.15(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where (1) the matters at issue involve common parties or common questions of fact or law; (2) consolidation would expedite and simplify consideration of the issues involved; and (3) consolidation would not adversely affect the rights of any of the parties to those proceedings.

7.15(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

193—7.16(17A) Amendments. Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

193—7.17(17A) Service and filing of pleadings and other papers.

7.17(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding will be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with their filing. Except for the original notice of hearing and statement of charges, and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties. A notice of hearing and statement of charges will be served by the board as provided in subrule 7.6(2). Once a specific administrative law judge has been assigned to a case, copies of all prehearing motions will also be served on the administrative law judge.

7.17(2) *Service—how made.* Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

7.17(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding will be filed with the board. All pleadings, motions, documents or other papers that are required to be served upon a party will be filed simultaneously with the board.

7.17(4) *Filing—how and when made.* Except where otherwise provided by law, a document is deemed filed at the time it is received by the board. Parties may file documents with the board by hand delivery or mail or by electronic transmission to the email address specified in the notice of hearing. If a document required to be filed within a prescribed period or on or before a particular date is received by the board after such period or such date, the document will be deemed filed on the date it is mailed by first-class mail or state interoffice mail, so long as there is proof of mailing. Filing by electronic transmission is complete upon transmission unless the party making the filing learns that the attempted filing did not reach the board. The board will not provide a mailed file-stamped copy of documents filed by email or other approved electronic means.

7.17(5) *Proof of mailing.* Proof of mailing includes either a legible United States Postal Service nonmetered postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (insert board title) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).
>
> _____ _____

(Date) (Signature)

7.17(6) *Electronic service.* The presiding officer may by order or a party or a party's attorney may by consent permit service of particular documents by email or similar electronic means, unless precluded by a provision of law. In the absence of such an order or consent, electronic transmission will not satisfy service requirements, but may be used to supplement service when rapid notice is desirable. Consent to electronic service by a party or a party's attorney will be in writing, may be accomplished through electronic transmission to the board and other parties, and will specify the email address for such service. Service by electronic transmission is complete upon transmission unless the board or party making service learns that the attempted service did not reach the party to be served.

193—7.18(17A) Discovery.

7.18(1) The scope of discovery described in Iowa Rule of Civil Procedure 1.503 applies to contested case proceedings.

7.18(2) The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions applies to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case will be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include but are not limited to reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 applies to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 applies to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 applies to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission applies in a contested case proceeding.

7.18(3) The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to a contested case proceeding. However, upon application by a party, the board may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceeding or impose an undue hardship. As a practical matter, the purpose of the disclosure requirements and discovery conference is served by the board's obligation to supply the information described in Iowa Code section 17A.13(2) upon request while a contested case is pending and the mutual exchange of information required in a prehearing conference under rule 193—7.22(17A).

7.18(4) Iowa Rule of Civil Procedure 1.508 applies to discovery of any experts identified by a party to a contested case proceeding.

7.18(5) Discovery will be served on all parties to the contested case proceeding, but not be filed with the board.

7.18(6) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the board relating to discovery will allege that the moving party has previously made a good-faith attempt to resolve with the opposing party the discovery issues involved. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

7.18(7) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

193—7.19(17A,272C) Issuance of subpoenas in a contested case.

7.19(1) Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or each command may be issued separately. Subpoenas will be issued by the executive officer or designee upon a written request that complies with this rule. In the case of a request for a subpoena of mental health records, the request will need to confirm compliance with the following conditions prior to the issuance of the subpoena:

a. The nature of the issues in the case reasonably justifies the issuance of the requested subpoena;

b. Adequate safeguards have been established to prevent unauthorized disclosure;

c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and

d. An attempt was made to notify the patient and to secure an authorization from the patient for the release of the records at issue.

7.19(2) A request for a subpoena will include the following information, as applicable:

a. The name, address, email address, and telephone number of the person requesting the subpoena;

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

c. The date, time, and location at which the person is commanded to attend and give testimony;

d. Whether the testimony is requested in connection with a deposition or hearing;

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

f. The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 7.19(1) have been satisfied.

7.19(3) Each subpoena will contain, as applicable:

a. The caption of the case;

b. The name, address and telephone number of the person who requested the subpoena;

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

d. The date, time, and location at which the person is commanded to appear;

e. Whether the testimony is commanded in connection with a deposition or hearing;

f. A description of the books, papers, records or other real evidence the person is commanded to produce;

g. The date, time and location for production, or inspection and copying;

h. The time within which a motion to quash or modify the subpoena will need to be filed;

i. The signature, address and telephone number of the executive officer or designee;

j. The date of issuance; and

k. A return of service.

7.19(4) The executive officer or designee will mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena. If a subpoena is requested to compel testimony or documents for rebuttal or impeachment at hearing, the person requesting the subpoena will so state in the request and may ask that copies of the subpoena not be mailed to the parties in the contested case.

7.19(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, will need to file with the board a motion to quash or modify the subpoena within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days. The motion will describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified for compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

7.19(6) Upon receipt of a timely motion to quash or modify a subpoena or motion to compel production, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny or grant the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

7.19(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge the ruling will need to appeal the ruling to the board in accordance with the procedure applicable to intra-agency appeals of proposed decisions set forth in rules 193—7.31(17A) and 193—7.32(17A), provided that all of the time frames are reduced by one-half.

7.19(8) If the person contesting the subpoena is not a party to the contested case proceeding, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case proceeding, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

193—7.20(17A) Motions.

7.20(1) No technical form for motions is required. However, prehearing motions need to be in writing, state the grounds for relief, and state the relief sought.

7.20(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

7.20(3) The presiding officer may schedule oral argument on any motion. If the board requests that an administrative law judge issue a ruling on a prehearing motion, the ruling is subject to interlocutory appeal pursuant to rule 193—7.31(17A).

7.20(4) Motions pertaining to the hearing, except motions for summary judgment, will need to be filed and served at least seven days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

7.20(5) Motions for summary judgment will comply with the requirements of Iowa Rule of Civil Procedure 1.981 and are subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

7.20(6) Motions for summary judgment will need to be filed and served at least 20 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion will need to file and serve a resistance within ten days from the date a copy of the motion was served unless otherwise ordered by the presiding officer. The time fixed for hearing or nonoral submission will be not less than 15 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 193—7.33(17A) and appeal pursuant to rule 193—7.32(17A).

193—7.21(17A,272C) Prehearing conference and disclosures.

7.21(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion will be filed not less than ten days prior to the hearing date. A prehearing conference will be scheduled not less than five business days prior to the hearing date. The board will set a prehearing conference in all licensee disciplinary cases and provide notice of the date and time in the notice of hearing. Written notice of the prehearing conference will be given by the board to all parties. For good cause, the presiding officer may permit variances from this rule.

7.21(2) Each party will disclose at or prior to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits that the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments need to be served on all parties.

7.21(3) In addition to the requirements of subrule 7.21(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters that the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

e. Consider any additional matters that will expedite the hearing.

7.21(4) Prehearing conferences will be conducted by telephone unless otherwise ordered. Parties will exchange and receive witness and exhibit lists in advance of a telephone prehearing conference. Unless otherwise provided in the order setting a prehearing conference, the prehearing conference will be conducted by an administrative law judge.

7.21(5) The parties will exchange copies of all exhibits marked for introduction at hearing in the manner provided in subrule 7.26(4) no later than three business days in advance of hearing, or as ordered by the presiding officer at the prehearing conference.

193—7.22(17A) Continuances. Unless otherwise provided, applications for continuances will be made to the presiding officer.

7.22(1) A written application for a continuance will:

a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance will need to confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance will be made or granted without notice to all parties except in an emergency where notice is not feasible. The board may waive notice of such requests for a particular case or an entire class of cases.

7.22(2) In determining whether to grant a continuance, the presiding officer may require documentation of any grounds for continuance and may consider:

a. Prior continuances;

b. The interests of all parties;

c. The likelihood of informal settlement;

d. The existence of an emergency;

e. Any objection;

f. Any applicable time requirements;

g. The existence of a conflict in the schedules of counsel, parties, or witnesses;

h. The timeliness of the request; and

i. Other relevant factors.

7.22(3) The board's executive officer or an administrative law judge may enter an order granting an uncontested application for a continuance. Upon consultation with the board chair or chair's designee, the board's executive officer or an administrative law judge may deny an uncontested application for a continuance, or rule on a contested application for continuance.

193—7.23(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing upon written notice filed with the board and served on all parties. Unless otherwise ordered by the board, a withdrawal will be with prejudice.

193—7.24(17A) Intervention.

7.24(1) *Motion.* A motion for leave to intervene in a contested case proceeding will state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention will be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

7.24(2) *When filed.* Motion for leave to intervene will be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene will be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion will contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor will be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances that would delay the proceeding will ordinarily be denied.

7.24(3) *Grounds for intervention.* The movant will demonstrate that (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

7.24(4) *Effect of intervention.* If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

193—7.25(17A,272C) Hearings. The presiding officer will be in control of the proceedings and have the authority to administer oaths and to admit or exclude testimony or other evidence and rule on all motions and objections. The board may request that an administrative law judge assist the board by performing any of these functions. Parties have the right to participate or to be represented in all hearings. Any party may be represented by an attorney at the party's expense.

7.25(1) *Examination of witnesses.* All witnesses will be sworn or affirmed by the presiding officer or the court reporter and be subject to cross-examination. Board members and the administrative law judge have the right to examine witnesses at any stage of a witness's testimony. The presiding officer may limit questioning in a manner consistent with law.

7.25(2) *Public hearing.* The hearing will be open to the public unless a licensee or licensee's attorney requests in writing that a licensee disciplinary hearing be closed to the public. At the request of a party or on the presiding officer's own motion, the presiding officer may issue a protective order to protect all or a part of a record or information that is privileged or confidential by law.

7.25(3) *Record of proceedings.* Oral proceedings will be recorded either by mechanical or electronic means or by certified shorthand reporters. Oral proceedings or any part thereof will be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription will be filed with and maintained by the board for at least five years from the date of decision.

7.25(4) *Order of proceedings.* Before testimony is presented, the record will show the identities of any board members present, the identity of the administrative law judge, the identities of the primary parties and their representatives, and the fact that all testimony is being recorded. In contested cases initiated by the board, such as licensee discipline, hearings will generally be conducted in the following order, subject to modification at the discretion of the board:

a. The presiding officer or designated person may read a summary of the charges and answers thereto and other responsive pleadings filed by the respondent prior to the hearing.

b. The assistant attorney general representing the state interest before the board will make a brief opening statement that may include a summary of charges and the names of any witnesses and documents to support such charges.

c. Each respondent will be offered the opportunity to make an opening statement, including the names of any witnesses the respondent(s) desires to call in defense. A respondent may elect to make the opening statement just prior to the presentation of evidence by the respondent(s).

d. The presentation of evidence on behalf of the state.

e. The presentation of evidence on behalf of the respondent(s).

f. Rebuttal evidence on behalf of the state, if any.

g. Rebuttal evidence on behalf of the respondent(s), if any.

h. Closing arguments first on behalf of the state, then on behalf of the respondent(s), and then on behalf of the state, if any.

The order of proceedings will be tailored to the nature of the contested case. In license reinstatement hearings, for example, the respondent will generally present evidence first because the respondent is obligated to present evidence in support of the respondent's application for reinstatement pursuant to rule 193—7.38(17A,272C). In license denial hearings, the state will generally first establish the basis for the board's denial of licensure, but thereafter the applicant has the burden of establishing the conditions for licensure pursuant to rule 193—7.39(546,272C).

7.25(5) *Decorum.* The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

7.25(6) *Immunity.* The presiding officer will have authority to grant immunity from disciplinary action to a witness, as provided by Iowa Code section 272C.6(3), but only upon the unanimous vote of all members of the board hearing the case. The official record of the hearing will include the reasons for granting the immunity.

7.25(7) *Sequestering witnesses.* The presiding officer, on the officer's own motion or upon the request of a party, may sequester witnesses.

7.25(8) *Witness representation.* Witnesses are entitled to be represented by an attorney at their own expense. In a closed hearing, the attorney may be present only when the client testifies. The attorney may assert legal privileges personal to the client, but cannot make other objections. The attorney may only ask questions of the client to prevent a misstatement from entering the record.

7.25(9) *Depositions.* Depositions may be used at hearing to the extent permitted by Iowa Rule of Civil Procedure 1.704.

7.25(10) *Witness fees.* The parties in a contested case will be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses will be determined in accordance with Iowa Code section 622.69. The costs for expert witnesses will be determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

193—7.26(17A) Evidence.

7.26(1) The presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

7.26(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

7.26(3) Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

7.26(4) The party seeking admission of an exhibit will provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents will be

provided to opposing parties. Copies will also be furnished to members of the board. All exhibits admitted into evidence will be appropriately marked and be made part of the record. The state's exhibits will be marked numerically, and the applicant's or respondent's exhibits will be marked alphabetically.

7.26(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection needs to be timely and be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.26(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

7.26(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

193—7.27(17A) Default.

7.27(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

7.27(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

7.27(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 193—7.32(17A). A motion to vacate will state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated will be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

7.27(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

7.27(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties are allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

7.27(6) "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

7.27(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 193—7.31(17A).

7.27(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

7.27(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues.

7.27(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 193—7.34(17A).

193—7.28(17A) Ex parte communication.

7.28(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 7.14(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

7.28(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

7.28(3) Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

7.28(4) To avoid prohibited ex parte communications, notice needs to be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 193—7.17(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

7.28(5) Persons who jointly act as presiding officers in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

7.28(6) The executive officer or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as the executive officer or other persons are not disqualified from participating in the making of a proposed or final decision under any provision of law and the executive officer or other persons comply with subrule 7.28(1).

7.28(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines pursuant to rule 193—7.22(17A).

7.28(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case will initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication will be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

7.28(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer will disclose to all parties material factual information received through

ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

7.28(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel will be reported to the administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

193—7.29(17A) Recording costs. Upon request, the board will provide a copy of the whole record or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

193—7.30(17A,272C) Final decisions, publication and client notification.

7.30(1) *Final decision.* When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. The final decision of the board will be filed with the executive officer. A copy of the final decision and order will immediately be sent by certified mail, return receipt requested, to the licensee's or other respondent's last-known U.S. Postal Service address or may be served as in the manner of original notices. A party's attorney may waive formal service and accept service in writing for the party. Copies will be mailed by interoffice mail or first-class mail to the prosecutor and counsel of record.

7.30(2) *Publication of decisions.* Final decisions of the board, including consent agreements and consent orders, are public documents, are available to the public and may be disseminated as provided in Iowa Code chapter 22 by the board or others. Final decisions relating to licensee discipline will be published in the professional licensing and regulation bureau's newsletter, may be published on the bureau's website, and may be transmitted to the appropriate professional association(s), national associations, other states, and news media, or otherwise disseminated. The board may, in its discretion, issue a formal press release.

7.30(3) *Notification of clients.* Within 15 days (or such other time period specifically ordered by the board) of the licensee's receipt of a final decision of the board, whether entered by consent or following hearing, which suspends or revokes a license or accepts a voluntary surrender of a license to resolve a disciplinary case, the licensee will notify in writing all current clients of the fact that the license has been suspended, revoked or voluntarily surrendered. Such notice will advise clients to obtain alternative professional services. Within 30 days of receipt of the board's final order, the licensee will file with the board copies of the notices sent. Compliance with this requirement will be a condition for an application for reinstatement.

193—7.31(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the administrative law judge, such as a ruling on a motion to quash a subpoena or other prehearing motion. In determining whether to do so, the board will weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of the interlocutory order at the time of the issuance of a final decision would provide an adequate remedy. Any request for interlocutory review will need to be filed within 14 days of issuance of the challenged order, but no later than the date for compliance with the order or the date of hearing, whichever is earlier.

193—7.32(17A) Appeals and review.

7.32(1) *Proposed decision.* Decisions issued by a panel of less than a quorum of the board or by an administrative law judge are proposed decisions. All licensee disciplinary decisions are obligated to be issued by the board. A proposed disciplinary decision issued by a panel of the board will need to be acted upon by the full board in order to become a final decision. In nondisciplinary cases, a proposed

decision issued by a panel of the board or an administrative law judge becomes a final decision if not timely appealed by any party or reviewed by the board.

7.32(2) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision. Such an appeal is required to exhaust administrative remedies and is a jurisdictional prerequisite to seeking judicial review.

7.32(3) *Review.* The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

7.32(4) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal needs to be signed by the appealing party or a representative of that party and contain a certificate of service. The notice will specify:

a. The parties initiating the appeal;

b. The proposed decision or order that is being appealed;

c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

d. The relief sought; and

e. The grounds for relief.

7.32(5) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence will need to be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

7.32(6) *Scheduling.* The board will issue a schedule for consideration of the appeal.

7.32(7) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs will cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument will be filed with the briefs. The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

7.32(8) *Record.* The record on appeal or review will be the entire record made before the hearing panel or administrative law judge.

193—7.33(17A) Applications for rehearing.

7.33(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

7.33(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application will state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.33(3), the applicant requests an opportunity to submit additional evidence.

7.33(3) *Additional evidence.* A party may request the taking of additional evidence only by establishing that (1) the facts or other evidence arose after the original proceeding, or (2) the party offering such evidence could not reasonably have provided such evidence at the original proceeding, or (3) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding.

7.33(4) *Time of filing.* The application will be filed with the board within 20 days after issuance of the final decision. The board's final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order. The application for rehearing is deemed filed on the date it is received by the board unless the provisions of subrule 7.17(4) apply.

7.33(5) *Notice to other parties.* A copy of the application will be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board will serve copies of the application on all parties.

7.33(6) *Disposition.* An application for rehearing will be deemed denied unless the board grants the application within 20 days after its filing. An order granting or denying an application for rehearing is deemed issued on the date it is filed with the board.

7.33(7) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

193—7.34(17A) Stays of board actions.

7.34(1) *When available.*

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

b. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition will state the reasons justifying a stay or other temporary remedy. Seeking a stay from the board is required to exhaust administrative remedies before a stay may be sought from the district court.

7.34(2) *When granted.* In determining whether to grant a stay, the presiding officer or board will consider the factors listed in Iowa Code section 17A.19(5)*"c."*

7.34(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

193—7.35(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

193—7.36(17A) Emergency adjudicative proceedings.

7.36(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare, and consistent with the United States Constitution and Iowa Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board will consider factors, including but not limited to the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

7.36(2) *Issuance of order.*

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

b. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the board;

(3) Certified mail to the last address on file with the board;

(4) First-class mail to the last address on file with the board; or

(5) Electronic service. Fax or email notification may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax or email and has provided a fax number or email address for that purpose.

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

7.36(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board will make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

7.36(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

193—7.37(17A,272C) Judicial review. Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.

7.37(1) Consistent with Iowa Code section 17A.19(3), if a party does not file a timely application for rehearing, a judicial review petition will need to be filed with the district court within 30 days after the issuance of the board's final decision. The board's final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order.

7.37(2) If a party does file a timely application for rehearing, a judicial review petition will need to be filed with the district court within 30 days after the application for rehearing is denied or deemed denied. An application for rehearing is denied or deemed denied as provided in subrule 7.33(6).

193—7.38(17A,272C) Reinstatement.

7.38(1) The term "reinstatement" as used in this rule will include both the reinstatement of a suspended license and the issuance of a new license following the revocation or voluntary surrender of a license. Reinstating a license to active status under this rule is a two-step process:

a. First, the board will need to determine whether the suspended, revoked, or surrendered license may be reinstated under the terms of the order revoking or suspending the license or accepting the surrender of the license and under the two-part test described in subrule 7.38(5).

b. Second, if the board grants the application to reinstate, the licensee will need to complete and submit an application to demonstrate satisfaction of all administrative preconditions for reinstatement of the license to active status, including verification of completion of all continuing education and payment of reinstatement and renewal fees.

7.38(2) Any person whose license has been revoked or suspended by the board, or who voluntarily surrendered a license in a disciplinary proceeding, may apply to the board for reinstatement in

accordance with the terms of the order of revocation or suspension, or order accepting the voluntary surrender.

7.38(3) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement cannot be made until at least one year has elapsed from the date of the order or the date the board accepted the voluntary surrender of a license.

7.38(4) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the respondent's license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including the matters preliminary and ancillary thereto, will be subject to the same rules of procedure as other cases before the board. In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

7.38(5) An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis of revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. Compliance with subrule 7.30(3) needs to also be established. The burden of proof to establish such facts will be on the respondent. An order of reinstatement may include such conditions as the board deems reasonable under the circumstances. The board may grant the application without hearing, but cannot deny the application in whole or part without setting the matter for hearing or providing the applicant the opportunity to request a contested case hearing if aggrieved by a term of the reinstatement order.

7.38(6) An order of reinstatement will be based upon a decision that incorporates findings of fact and conclusions of law and needs to be based upon the affirmative vote of not fewer than a majority of the board. This order will be published as provided for in subrule 7.30(2).

193—7.39(546,272C) Hearing on license denial. If the board denies an application for an initial, reciprocal or comity license, the executive officer will send written notice to the applicant by regular first-class mail identifying the factual and legal basis for denying the application. If the board denies an application to renew an existing license, the provisions of rule 193—7.40(546,272C) will apply.

7.39(1) An applicant who is aggrieved by the denial of an application for licensure and who desires to contest the denial will need to request a hearing before the board within 30 calendar days of the date the notice of denial is mailed. A request for a hearing needs to be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing will specify the factual or legal errors that the applicant contends were made by the board, needs to identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the board will promptly issue a notice of contested case hearing on the grounds asserted by the applicant.

7.39(2) The board, in its discretion, may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as presiding officer. The applicant may request that an administrative law judge act as presiding officer and render a proposed decision pursuant to rule 193—7.10(17A,272C). A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to rule 193—7.32(17A).

7.39(3) License denial hearings are contested cases open to the public. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party will have the burden of establishing the affirmative of matters asserted, the applicant will have the ultimate burden of persuasion as to the applicant's qualification for licensure.

7.39(4) The board, after a hearing on license denial, may grant or deny the application for licensure. If denied, the board will state the reasons for denial of the license and may state conditions under which the application for licensure might be granted, if applicable.

7.39(5) The notice of license denial, request for hearing, notice of hearing, record at hearing and order are open records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, collateral organizations and other persons or entities.

7.39(6) Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

193—7.40(546,272C) Denial of application to renew license. If the board denies a timely and sufficient application to renew a license, a notice of hearing will be issued to commence a contested case proceeding.

7.40(1) Hearings on denial of an application to renew a license will be conducted according to the procedural rules applicable to contested cases. Evidence supporting the denial of the license may be presented by an assistant attorney general. The provisions of subrules 7.39(2) and 7.39(4) to 7.39(6) will generally apply, although license denial hearings that are in the nature of disciplinary actions will be subject to all laws and rules applicable to such hearings.

7.40(2) Pursuant to Iowa Code section 17A.18(2), an existing license will not terminate or expire if the licensee has made timely and sufficient application for renewal until the last day for seeking judicial review of the board's final order denying the application, or a later date fixed by order of the board or the reviewing court.

7.40(3) Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application will be:

a. Received by the board in paper or electronic form, or postmarked with a nonmetered United States Postal Service postmark on or before the date the license is set to expire or lapse;

b. Signed by the licensee if submitted in paper form or certified as accurate if submitted electronically;

c. Fully completed; and

d. Accompanied with the proper fee. The fee will be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

7.40(4) The administrative processing of an application to renew an existing license will not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

193—7.41(546,272C) Recovery of hearing fees and expenses. The board may assess the licensee certain fees and expenses relating to a disciplinary hearing only if the board finds that the licensee has violated a statute or rule enforced by the board. Payment will be made directly to the professional licensing and regulation bureau of the department of inspections, appeals, and licensing pursuant to rule 193—2.1(272C).

7.41(1) The board may assess the following costs under this rule:

a. For conducting a disciplinary hearing, an amount not to exceed $75.

b. All applicable costs involved in the transcript of the hearing or other proceedings in the contested case including but not limited to the services of the court reporter at the hearing, transcription, duplication, and postage or delivery costs. In the event of an appeal to the full board from a proposed panel decision, the appealing party will timely request and pay for the transcript necessary for use in the board appeal process. The board may assess the transcript cost against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7), as the board deems equitable in the circumstances.

c. All normally accepted witness expenses and fees for a hearing or the taking of depositions, as incurred by the state of Iowa. These costs will include but not be limited to the cost of an expert witness and the cost involved in telephone testimony. The costs for lay witnesses will be guided by Iowa Code section 622.69. The cost for expert witnesses will be guided by Iowa Code section 622.72. Mileage costs will not be governed by Iowa Code section 625.2. The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to any witness who is subpoenaed by either party to testify at hearing. Additionally, the board may assess travel and lodging expenses for witnesses at a rate not to exceed the rate applicable to state employees on the date the expense is incurred.

d. All normally applicable costs incurred by the state of Iowa involved in depositions, including but not limited to the services of the court reporter who records the deposition, transcription, duplication, and postage or delivery costs. When a deposition of an expert witness is taken, the deposition cost will include a reasonable expert witness fee. The expert witness fee will not exceed the expert's customary hourly or daily rate, and will include the time spent in travel to and from the deposition but exclude time spent in preparation for the deposition.

7.41(2) When imposed in the board's discretion, hearing fees (not exceeding $75) will be assessed in the final disciplinary order. Costs and expenses assessed pursuant to this rule will be calculated and, when possible, entered into the final disciplinary order specifying the amount to be reimbursed and the time period in which the amount assessed will need to be paid by the licensee.

a. When it is impractical or not possible to include in the disciplinary order the exact amount of the assessment and time period in which to pay in a timely manner, or if the expenditures occur after the disciplinary order is issued, the board, by a majority vote of the members present, may assess through separate order the amount to be reimbursed and the time period in which payment is to be made by the licensee.

b. If the assessment and the time period are not included in the disciplinary order, the board will have to the end of the sixth month after the date the state of Iowa paid the expenditures to assess the licensee for such expenditure. In order to rely on this provision, however, the final disciplinary order will need to notify the licensee that fees and expenses will be assessed once known.

7.41(3) Any party may object to the fees, costs or expenses assessed by the board by filing a written objection within 20 days of the issuance of the final disciplinary decision, or within 10 days of any subsequent order establishing the amount of the assessment. A party's failure to timely object will be deemed a failure to exhaust administrative remedies. Orders that impose fees, costs or expenses will notify the licensee of the time frame in which objections will need to be filed in order to exhaust administrative remedies.

7.41(4) Fees, costs, and expenses assessed by the board pursuant to this rule will be allocated to the expenditure category in which the disciplinary procedure of hearing was incurred. The fees, costs, and expenses will be considered repayment receipts as defined in Iowa Code section 8.2.

7.41(5) The failure to comply with payment of the assessed costs, fees, and expenses within the time specified by the board will constitute a violation of an order of the board, be grounds for discipline, and be considered prima facie evidence of a violation of Iowa Code section 272C.3(2)*"a."* However, no action may be taken against the licensee without the opportunity for hearing as provided in this chapter.

193—7.42(546,272C) Settlement after notice of hearing.

7.42(1) Settlement negotiations after the notice of hearing is served may be initiated by the licensee or other respondent, the prosecuting assistant attorney general, the board's executive officer, or the board chair or chair's designee.

7.42(2) The board chair or chair's designee has authority to negotiate on behalf of the board but does not have the authority to bind the board to particular terms of settlement.

7.42(3) The respondent is not obligated to participate in settlement negotiations. The respondent's initiation of or consent to settlement negotiation constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17 and rule 193—7.28(17A). Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chair or

chair's designee, and the designated board member is not disqualified from participating in the adjudication of the contested case.

7.42(4) Unless designated to negotiate, no member of the board will be involved in settlement negotiation until a written consent order is submitted to the full board for approval. No informal settlement will be submitted to the full board unless it is in final written form executed by the respondent. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. If the board fails to approve the consent order, it will be of no force and effect to either party and will not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement that the respondent is free to accept or reject.

7.42(5) If the board and respondent agree to a consent order, the consent order will constitute the final decision of the board. By electing to resolve a contested case through consent order, the respondent waives all rights to a hearing and all attendant rights. A consent order in a licensee disciplinary case will have the force and effect of a final disciplinary order entered in a contested case and will be published as provided in rule 193—7.30(17A,272C).

These rules are intended to implement Iowa Code chapters 17A, 252J, 272C, 272D, 542, 542B, 543B, 543D, 544A, 544B, and 544C and section 10A.506.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8092C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to licensing actions for nonpayment of child support and state debt

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 8, "Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support or State Debt," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 252J, 272C, and 272D.

Purpose and Summary

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The rulemaking rescinds the former Bureau's chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses licensing actions for nonpayment of child support and state debt in 481—Chapter 8.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7518C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193—Chapter 8**.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8093C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to petition for rulemaking

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 9, "Petition for Rule Making," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The rulemaking rescinds the former Bureau's chapter on petitions for rulemaking so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses petitions for rulemaking in 481—Chapter 2.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7519C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193—Chapter 9**.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8094C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to declaratory orders

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 10, "Declaratory Orders," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. This rulemaking rescinds the former Bureau's chapter on declaratory orders so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses declaratory orders in 481—Chapter 3.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7520C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193—Chapter 10**.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8095C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to sales and leases of goods and services

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 11, "Sales and Leases of Goods and Services," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 10A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 10A and 68B.

Purpose and Summary

This chapter provides the process for professional licensing board members to gain authorization to sell goods or services to those who are subject to the regulatory authority of the board on which they serve. The chapter provides for certain blanket consent previously authorized by the boards and filed with the Ethics and Campaign Disclosure Board.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7521C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
SALES AND LEASES OF GOODS AND SERVICES

193—11.1(68B) Selling or leasing of goods or services by members of the department of inspections, appeals, and licensing examining boards as defined in 191—Chapter 1. The board members cannot sell or lease, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of inspections, appeals, and licensing except as authorized by this rule, and by the consent documents filed with the Iowa ethics and campaign disclosure board pursuant to Iowa Code section 68B.4 and the corresponding provisions of rule 351—6.11(68B).

11.1(1) *Conditions of consent for members.* Consent may be given by a majority of the members of the board upon a finding that the conditions required by Iowa Code section 68B.4, as described in 351—subrule 6.11(4), have been satisfied. The board may grant a blanket consent for sales and leases to classes of individuals, associations, or corporations when such blanket consent is consistent with 351—subrule 6.11(4) and the granting of single consents is impractical or impossible to determine.

11.1(2) *Authorized sales and leases.*

a. A member of a department of inspections, appeals, and licensing examining board may sell or lease goods or services to any individual, association, or corporation regulated by any division within the department of inspections, appeals, and licensing, other than the board on which that official serves. This consent is granted because the sale or lease of such goods or services does not affect the board member's duties or functions on the board. Each board has filed its blanket consent to such sales and leases with the ethics and campaign disclosure board.

b. A member of a department of inspections, appeals, and licensing examining board may sell or lease goods or services to any individual, association, or corporation regulated by the licensing board or commission of which that person is a member if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale or lease of such goods or services does not affect the board member's duties or functions on the board. In the event a complaint is filed with the licensing board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case, as provided, for instance, in the code of administrative judicial conduct in rule 481—15.3(10A). Each board has filed its blanket consent to such sales and leases with the ethics and campaign disclosure board. The boards intend that the blanket consent be interpreted broadly to allow routine professional services offered directly to the general

public and to licensees, such as continuing education instruction or peer review services. Such consent recognizes that those licensees most proficient and ethical in their professional careers may also be among those whose services are desirable to enrich the professional competence of licensees. Interpreting the blanket consent broadly accordingly removes a possible disincentive to board membership.

c. Individual application and approval are not necessary for the sales and leases authorized by this rule and by the consents filed with the ethics and campaign disclosure board unless there are unique facts surrounding a particular sale or lease that would cause the sale or lease to affect the seller's or lessor's duties or functions, would give the buyer or lessee an advantage in dealing with the board, or would otherwise present a conflict of interest as defined in Iowa Code section 68B.2A or common law.

11.1(3) *Application for consent.* Prior to selling or leasing a good or service to an individual, association, or corporation subject to the regulatory authority of the department of inspections, appeals, and licensing, an official will obtain prior written consent, as provided in 351—subrule 6.11(3), unless the sale or lease is specifically allowed in subrule 11.1(2) and in the consents filed with the ethics and campaign disclosure board. The request for consent needs to be in writing and signed by the official requesting consent. The application needs to provide a clear statement of all relevant facts concerning the sale or lease. The application should identify the parties to the sale or lease and the amount of compensation. The application should also explain why the sale or lease should be allowed. All applications need to conform to the requirements of 351—subrule 6.11(3).

11.1(4) *Limitation of consent.* Consent will be in writing and be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this rule does not constitute authorization for any activity that is a conflict of interest under common law or that would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules. The board's ruling on each application, whether consent is conferred or denied or conditionally granted, will be filed with the ethics and campaign disclosure board pursuant to 351—subrule 6.11(7). An official who receives a denial or conditional consent may appeal the ruling to the ethics and campaign disclosure board as provided in 351—subrule 6.11(6).

This rule is intended to implement Iowa Code chapter 68B.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8096C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to impaired licensee review committees

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 12, "Impaired Licensee Review Committees," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

The purpose of this chapter is to form a committee to monitor impaired licensees for the purpose of public safety. The committee may include a licensed practitioner who has expertise in the area of substance abuse and addiction treatment or other applicable impairment, one public member of a professional licensing board, and one licensee. The program is confidential and participation is not a matter of public record. Specific eligibility criteria must be met to ensure that matters that may need to be addressed by the applicable board are routed appropriately. The goal of the program is to ensure that a licensee is safe to practice the licensee's profession through ongoing committee monitoring. A participant will enter into a contract with a committee and agree to adhere to all terms and agreements set forth in the contract. Failure to comply with the provisions of the contract gives the committee the authority to make a referral to the applicable board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public, the committee may place immediate practice restrictions on the licensee.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7522C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
IMPAIRED LICENSEE REVIEW COMMITTEES

193—12.1(272C) Impaired licensee review committee. Pursuant to the authority of Iowa Code section 272C.3(1)*"k,"* all the professional licensing boards as defined in 191—Chapter 1 may establish an impaired licensee review committee.

12.1(1) *Definitions.* The following definitions are applicable wherever such terminology is used in the rules regarding the impaired licensee review committee.

"Committee" means the impaired licensee review committee.

"Contract" means the written document establishing the terms for participation in the impaired licensee program prepared by the committee.

"Impairment" means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction or any neuropsychological or physical disorder or disability.

"Licensee" means a person licensed under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

"Self-report" means the licensee's providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board's receiving a complaint or report alleging the same from a second party.

12.1(2) *Purpose.* The impaired licensee review committee evaluates, assists, monitors, and, as necessary, makes reports to the board on the recovery or rehabilitation of licensees who self-report impairments or who are referred to the committee by the board.

12.1(3) *Composition of the committee.* The chairperson of each board will appoint the members of the committee for that board. The membership of the committee includes, but is not limited to:

a. One licensee, registered under the applicable Iowa Code chapter regulated by the board;

b. One public member of the board;

c. One or more licensed professionals with expertise in substance abuse/addiction treatment programs or other applicable impairment.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of inspections, appeals, and licensing, if deemed in the best interest of the licensee or the public.

12.1(4) *Eligibility.* To be eligible for participation in the impaired licensee recovery program, a licensee will need to meet all of the following criteria:

a. The licensee needs to self-report an impairment or suspected impairment directly to the office of the board or be referred to the committee by the board;

b. The licensee has not engaged in the unlawful diversion or distribution of controlled substances, or illegal substances;

c. At the time of the self-report, the licensee has not been under board order for an impairment or any other violation of the laws and rules governing the practice of the profession, although the existence of such an order cannot prevent the board from making a referral when deemed in the best interest of the licensee and the public;

d. The licensee has not caused harm or injury to a client;

e. The licensee has not been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the profession;

f. The licensee has provided truthful information and fully cooperated with the board or committee.

12.1(5) *Meetings.* The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

12.1(6) *Terms of participation.* A licensee will agree to comply with the terms for participation in the impaired licensee program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

12.1(7) *Noncompliance.* Failure to comply with the provisions of the agreement obligates the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

12.1(8) *Practice restrictions.* The committee may impose restrictions on the licensee's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is obligated to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee will refer the licensee to the board for appropriate action.

12.1(9) *Limitations.* The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired licensee program. Participation in the program under the auspices of the committee does not relieve the board of any duties and does not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action. A violation of a contract is a ground for licensee discipline.

12.1(10) *Confidentiality.* The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program cannot be disclosed to the public. Participation in the impaired licensee program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8097C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to public records

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 13, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 22.

Purpose and Summary

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. This rulemaking rescinds the former Bureau's chapter on public records and fair information practices so that the Department will have one agencywide chapter to better

serve Iowans and streamline operations. The Department addresses public records and fair information practices in 481—Chapter 3.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7523C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **193—Chapter 13**.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8098C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to licensure by verification or work experience

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 14, "Alternative Paths to Licensure," and adopts a new Chapter 14, "Licensure by Verification or Work Experience," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

These rules provide alternative pathways for licensure. The alternative options streamline the process for individuals who are licensed in another state to be licensed in Iowa. The requirements set out in these rules ensure licensees have proper skills to practice. The rules provide for certain criteria to be assessed, including prior discipline, proof of residency, and work experience, in order to protect the public.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7524C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
LICENSURE BY VERIFICATION OR WORK EXPERIENCE

193—14.1(272C) Definitions.

"Board" means an examining board or commission as defined in 193—Chapter 1.

"Issuing jurisdiction" means any state, commonwealth, or municipality; the District of Columbia; or other insular territory of the United States.

"License" or *"licensure"* means any license, registration, certificate, or permit that may be granted by an examining board or commission as defined in 193—Chapter 1.

193—14.2(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

14.2(1) *Eligibility.* A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

14.2(2) *Board application.* The applicant needs to submit the following:

a. A completed application for licensure by verification.

b. Payment of the application fee.

c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.

d. A verification form completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form needs to be sent directly from the licensing authority to the board.

e. A copy of the complete criminal record, if the applicant has a criminal history.

f. A copy of relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.

g. Copies of relevant laws setting forth the scope of practice in the other state.

14.2(3) *Applicants with prior discipline.* If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

14.2(4) *Applicants with pending licensing complaints or investigations.* If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

14.2(5) *Determination by board.* The board will make the determination of whether to issue a license under this rule based on information supplied by the applicant in the application and on such additional information as the board may acquire, including information or verification from other jurisdictions.

193—14.3(272C) Applicants with work experience in jurisdictions without licensure requirements.

14.3(1) *Work experience.* An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not need a professional license to practice in the profession may be considered to

have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in Iowa is sought. The three years of work experience needs to be within the four years preceding the date of application for initial licensure. The applicant will need to satisfy all other requirements, including passing any required examinations, to receive a license.

14.3(2) *Required documentation.* An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements carries the burden of providing all of the following by submitting relevant documents as part of a completed license application:

a. Proof of Iowa residency, which may include:

(1) Residential mortgage, lease, or rental agreement;

(2) Utility bill;

(3) Bank statement;

(4) Paycheck or pay stub;

(5) Property tax statement;

(6) A document issued by the federal or state government; or

(7) Any other board-approved document that reliably confirms Iowa residency.

b. Proof of three or more years of work experience within the four years preceding the application for licensure, which may include:

(1) A letter from the applicant's prior employer documenting the dates of employment;

(2) Paychecks or pay stubs;

(3) If self-employed, business documents filed with the secretary of state; or

(4) Any other board-approved evidence of sufficient work experience.

c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa, which includes:

(1) A written statement by the applicant detailing the scope of practice; and

(2) Business or marketing materials detailing the services provided.

These rules are intended to implement Iowa Code chapter 272C.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8099C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Rulemaking related to use of criminal convictions

The Professional Licensing and Regulation Bureau hereby rescinds Chapter 15, "Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 272C and 546.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 272C and 546 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

This rulemaking clarifies the pathway to potential licensure for individuals with criminal convictions. The rules ensure a streamlined pathway while protecting the public through criteria that allows a professional licensing board to review the complete criminal record, evidence of rehabilitation, and other information when making a determination on eligibility for licensure. This rulemaking implements 2020 Iowa Acts, House File 2627.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7525C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Interior Design Examining Board on March 4, 2024; the Engineering and Land Surveying Examining Board on March 14, 2024; the Real Estate Appraiser Examining Board on March 19, 2024; the Architectural Examining Board on March 21, 2024; the Real Estate Commission on April 4, 2024; the Landscape Architectural Examining Board on April 23, 2024; and the Accountancy Examining Board on May 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

193—15.1(272C) Definitions. For the purposes of these rules, the following definitions apply:

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

"License" means any license or registration issued by a board.

193—15.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 193—15.3(272C), the applicant's convictions will be reviewed when the board receives a completed license application.

15.2(1) An applicant will disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

15.2(2) An applicant with one or more convictions will submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

15.2(3) An applicant will submit as a part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

15.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

15.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated will need to still satisfy all other requirements for licensure.

15.2(6) Any application fees paid will not be refunded if the license is denied.

193—15.3(272C) Eligibility determination.

15.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

15.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner will submit all of the following:

a. A completed petition for eligibility determination form;

b. The complete criminal record for each of the petitioner's convictions;

c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;

d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

e. Payment of a nonrefundable fee of $25.

193—15.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

15.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered is a proposed decision.

15.4(2) The contested case hearing is closed to the public and the board's review of a proposed decision occurs in closed session.

15.4(3) The office of the attorney general will represent the board's initial ineligibility determination or license denial and will have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof will shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

15.4(4) A petitioner or applicant will need to appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding will be in accordance with Iowa Code chapter 17A.

193—15.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapter 272C.

[Filed 6/13/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8115C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to petitions for rulemaking

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 6, "Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3 and 272C.3 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 272C.

Purpose and Summary

This rulemaking eliminates unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 2, which is substantively analogous to 645—Chapter 6. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code to make it easier for Iowans to enter the workforce.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7308C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 6**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8116C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to agency procedure for rulemaking

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 7, "Agency Procedure for Rule Making," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 17A.3 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

This rulemaking eliminates unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 4, which is substantively analogous to the current 645—Chapter 7. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code to make it easier for Iowans to enter the workforce.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7300C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.

- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 7**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8117C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to declaratory orders

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 8, "Declaratory Orders," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 17A.3 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

This rulemaking eliminates unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 3, which is substantively analogous to 645—Chapter 8. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code to make it easier for Iowans to enter the workforce.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7304C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 8**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8118C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to public records and fair information practices

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 10, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3 and 22.11 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 22.

Purpose and Summary

This rulemaking eliminates unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 5, which is substantively analogous to 645—Chapter 10. The rulemaking aligns with the goal of Executive Order 10 of reducing and simplifying the Iowa Administrative Code and is in line with a stated goal of Iowa Code chapter 17A to "simplify

government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7301C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 10**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8119C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to informal settlement

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 12, "Informal Settlement," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C and section 17A.10 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 272C.

Purpose and Summary

This rulemaking eliminates an unnecessary chapter in the Iowa Administrative Code. The purpose of Chapter 12 is to provide procedures for negotiation and resolution of a contested case by informal settlement. The chapter is being rescinded and consolidated into 645—Chapter 11.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7302C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.

- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 12**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8120C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to materials for board review

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 17, "Materials for Board Review," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 147 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 147.

Purpose and Summary

This rulemaking eliminates an unnecessary chapter in the Iowa Administrative Code. Chapter 17 provided rules on internal processes that do not need to be in the Iowa Administrative Code.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7298C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 17**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8121C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to waivers or variances from administrative rules

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 18, "Waivers or Variances From Administrative Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 17A.9A and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147 and 272C.

Purpose and Summary

This rulemaking eliminates unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 6, which is substantively analogous to 645—Chapter 18. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code and is in line with a stated goal of Iowa Code chapter 17A to "simplify government

by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7307C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.
- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 18**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8122C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to military service and veteran reciprocity

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 20, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 272C.12A and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This rulemaking eliminates unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 7, which is substantively analogous to 645—Chapter 20. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code and creating unity throughout the agency.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7309C**. A public hearing was held on the following date(s):

- February 13, 2024
- February 14, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the following boards on the dates stated:

- Board of Hearing Aid Specialists: February 28, 2024.
- Board of Sign Language Interpreters and Transliterators: February 29, 2024.
- Board of Psychology: March 4, 2024.
- Board of Massage Therapy: March 5, 2024.

- Board of Mortuary Science: March 7, 2024.
- Board of Athletic Training: March 12, 2024.
- Board of Behavioral Science: March 14, 2024.
- Board of Dietetics: March 22, 2024.
- Board of Nursing Home Administrators: April 3, 2024.
- Board of Optometry: April 4, 2024.
- Board of Chiropractic: April 10, 2024.
- Board of Physical and Occupational Therapy: April 11, 2024.
- Board of Podiatry: April 12, 2024.
- Board of Physician Assistants: April 24, 2024.
- Board of Speech Pathology and Audiology: May 3, 2024.
- Board of Social Work: May 13, 2024.
- Board of Respiratory Care and Polysomnography: May 16, 2024.
- Board of Barbering and Cosmetology Arts and Sciences: May 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **645—Chapter 20**.

[Filed 6/18/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8123C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to hepatitis programs

The Department of Health and Human Services (HHS) hereby rescinds Chapter 2, "Hepatitis Programs," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135.19.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.19.

Purpose and Summary

This chapter defines parameters of a viral hepatitis program. This program is designed to identify people most at risk of exposure to viral hepatitis, to distribute information regarding dangers presented by the disease, and to make available hepatitis A and hepatitis B vaccinations and hepatitis C testing.

This chapter defines a list of individuals by category who are at an increased risk for viral hepatitis exposure and details the nature of educational information to be provided to such individuals, as well as the form and manner of information distribution. A vaccination and testing program is established offering testing through local health departments, clinics, and community-based organizations to individuals most impacted by the viruses. Agencies offering testing and vaccination services are also to provide education materials, pretest and posttest counseling, and referral services.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7373C**. A public hearing was held on the following date(s):

- February 14, 2024
- February 26, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
HEPATITIS PROGRAMS

VIRAL HEPATITIS PROGRAM—VACCINATIONS AND TESTING

641—2.1(135) Definitions. For the purpose of these rules, the following definitions shall apply:

"Contracted agencies" means local health departments, clinics, and community-based organizations that are funded by the department to provide HCV testing and vaccination services.

"HCV" means the hepatitis C virus as defined by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

"HIV" means the same as defined in Iowa Code section 141A.1.

"Viral hepatitis" means inflammation of the liver caused by one of several viruses: hepatitis A, B, C, D, and E.

641—2.2(135) Exposure risks for hepatitis C virus. The following individuals are at increased risk of exposure to HCV as described by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services:

1. People living with HIV;
2. People who have ever injected drugs;
3. People with selected medical conditions, including those who ever received maintenance hemodialysis;
4. Recipients of clotting factors made before 1987;
5. Recipients of blood transfusions, blood products, and organ transplants that occurred before 1992;
6. Health care, emergency medical, and public safety personnel after needle sticks, sharps, or mucosal exposures to HCV-positive blood; and
7. Infants born to mothers living with HCV.

641—2.3(135) Information for public distribution. The department will make available educational materials to the public on hepatitis C infection, transmission, and where to seek testing services as defined on the department's website.

641—2.4(135) Hepatitis vaccination and testing program.

2.4(1) When sufficient state and federal funds are available, the department will maintain a vaccination and testing program. The program shall offer HCV testing and hepatitis A and B vaccinations through local health departments, clinics, and community-based organizations to individuals at an increased risk of exposure to viral hepatitis as described in the Viral Hepatitis Prevention and Testing Services Manual dated December 2023 and available on the department's website. Contracted agencies offering testing and vaccination services shall be required to provide integrated HIV, viral hepatitis, and sexually transmitted infection education; pretest and posttest counseling; and referral services.

2.4(2) Contracted agencies shall provide individuals presenting for testing or vaccination services with education explaining viral hepatitis and how to reduce the risk of acquiring it.

2.4(3) Contracted agencies shall provide individuals testing positive for viral hepatitis with information about the diagnosis and treatment options and with a referral list of health care providers to aid in seeking treatment, additional follow-up testing, and other hepatitis-related services.

These rules are intended to implement Iowa Code section 135.19.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8124C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to the medical cannabidiol program

The Department of Health and Human Services (HHS) hereby rescinds Chapter 154, "Medical Cannabidiol Program," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 124E.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 124E.

Purpose and Summary

This chapter implements a medical cannabidiol program for the in-state manufacture and dispensing of medical cannabis products for patients with a qualifying debilitating medical condition. Registration cards to purchase at a dispensary in Iowa are issued to patients who are at least 18 years of age, who are permanent residents of Iowa, and who are determined by a health care practitioner to suffer from a medical condition that qualifies for use of medical cannabidiol. Registration cards may also be issued to the primary caregivers of such patients.

The chapter defines licensing requirements for medical cannabidiol manufacturers and dispensaries, fees for application and licensure, safety protocols, marketing and advertising restrictions, and limits on manufacturing and dispensing. Manufacturers may only manufacture products in the forms recommended by the Medical Cannabidiol Board and approved by the Board of Medicine. The General Assembly maintains sole authority to revise the definition of medical cannabidiol.

HHS maintains a secure sales and inventory tracking system available to dispensaries 24 hours per day, seven days per week for the purpose of verifying that a person is lawfully in possession of a registration card and for tracking the date of the sale and quantity purchased. This system tracks products and inventory from creation by a manufacturer to transfers for testing and delivery, dispensing at a dispensary, and chain of custody or "seed-to-sale."

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7360C**. A public hearing was held on the following date(s):

- February 14, 2024
- February 26, 2024

No one attended the public hearings. Public comment was received via email addressing some industry concerns regarding the rule language.

Changes from the Notice include updating multiple definitions ("debilitating medical condition," "product expiration date," "synthetic cannabinoid," and "advertisement"), along with clarification of rules regarding reciprocity, public consumption, servings per package for inhalable products, and license transfer for the purpose of intra-organizational restructure.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 154 and adopt the following **new** chapter in lieu thereof:

CHAPTER 154
MEDICAL CANNABIDIOL PROGRAM

641—154.1(124E) Definitions. For the purposes of these rules, the following definitions shall apply:

"Acceptance criteria" means the specified limits placed on characteristics of an item or method that are used to determine data quality.

"Action level" means the threshold value that provides the criterion for determining whether a sample passes or fails a test performed pursuant to these rules.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of medical cannabidiol.

"Analyte" means a chemical, compound, element, bacteria, yeast, fungus, or toxin to be identified or measured.

"Analytical batch" means a group of samples that are prepared together for the same analysis and analyzed sequentially using the same instrument calibration curve and common analytical quality control checks.

"Analytical method" means a technique used qualitatively or quantitatively to determine the composition of a sample or a microbial contamination of a sample.

"Audit" means a review by authorized personnel that includes select scope engagement or other methods of review that analyze operational or compliance issues.

"Background investigation" means a thorough review of an entity, an owner, investors, and employees conducted by the department of public safety, including but not limited to state and national criminal history records, credit records, and internal revenue service records.

"Batch" means a specifically identified quantity of dried flower and other cannabis plant matter that is uniform in strain or cultivar, harvested at the same time, and cultivated using the same pesticides and other crop inputs.

"Biosecurity" means a set of preventative measures designed to reduce the risk of transmission of:

1. Infectious diseases in crops;
2. Quarantined pests;
3. Invasive alien species;
4. Living modified organisms.

"Cannabinoid" means a chemical compound that is unique to and derived from cannabis.

"Cannabis" means seeds, plants, cuttings, or plant waste material from *Cannabis sativa* L. or *Cannabis indica* used in the manufacture of medical cannabidiol.

"CBD" means cannabidiol, Chemical Abstracts Service number 13956-29-1.

"CBDA" means cannabidiolic acid, Chemical Abstracts Service number 1244-58-2.

"Certificate of analysis" means the report prepared for the requester about the analytical testing performed and the results obtained by a laboratory.

"Certified" means that a laboratory demonstrates to the satisfaction of the department its ability to consistently produce valid data within the acceptance limits as specified in the department's requirements for certification and meets the minimum requirements of this chapter and all applicable regulatory requirements.

"Certified reference material" means a reference material prepared by a certifying body.

"Combusted" means the addition of a flame to medical cannabidiol or raw flower cannabis for the purposes of burning for inhalation, or smoking cannabis.

"Consumable hemp product" means a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into the human body.

1. A consumable hemp product may be introduced into the human body by ingestion or absorption by any device including but not limited to an electronic device.
2. A consumable hemp product may exist in a solid or liquid state.
3. A hemp product is deemed to be a consumable hemp product if it is any of the following:

- Designed by the processor, including the manufacturer, to be introduced into the human body.
- Advertised as an item to be introduced into the human body.
- Distributed, exported, or imported for sale or distribution to be introduced into the human body.

"Consumable hemp product" includes but is not limited to any of the following:

1. A noncombustible form of hemp that may be digested, such as food; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application.
2. Hemp processed or otherwise manufactured, marketed, sold, or distributed as food, a food additive, a dietary supplement, or a drug.

"Consumable hemp product" does not include a hemp product if the intended use of the hemp product is introduced into the human body by any method of inhalation, as prohibited under Iowa Code section 204.14A.

"Crop input" means any substance applied to or used in the cultivation and growth of a cannabis plant. "Crop input" includes but is not limited to pesticides, fungicides, fertilizers, and other soil or medium amendments.

"Date of expiration" means one year from the date of issuance of the medical cannabidiol registration card by the department of transportation.

"Date of issuance" means the date of issuance of the medical cannabidiol registration card by the department.

"Debilitating medical condition" means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
- Severe or chronic pain.
- Nausea or severe vomiting.
- Cachexia or severe wasting.

2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn's disease.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
- Severe or chronic pain.
- Nausea or severe vomiting.
- Cachexia or severe wasting.

8. Parkinson's disease.
9. Chronic pain.
10. Severe, intractable autism with self-injurious or aggressive behaviors.
11. Post-traumatic stress disorder.
12. Corticobasal degeneration.
13. Ulcerative colitis.
14. Any medical condition that is recommended by the medical cannabidiol board and adopted by the board of medicine by rule pursuant to Iowa Code section 124E.5 and that is listed in 653—subrule 13.15(1).

"Dispensary" means an individual or entity licensed by the department to dispense medical cannabidiol to patients and primary caregivers pursuant to Iowa Code chapter 124E and these rules. "Dispensary" includes the employees and agents of the dispensary.

"Dispensary facility" means any secured building, space, grounds, and physical structure of a dispensary licensed by the department to dispense medical cannabidiol and where the dispensing of medical cannabidiol is authorized.

"Dispense" or *"dispensing"* means to supply medical cannabidiol to patients pursuant to Iowa Code chapter 124E and these rules.

"Disqualifying felony offense" means the same as defined in Iowa Code section 124E.2.

"Edible medical cannabidiol products" means food items containing medical cannabidiol. "Edible medical cannabidiol products" does not include pills, tinctures, oils, or other forms of medical cannabidiol that may be consumed orally or through the nasal cavity that do not contain food or food additives; provided that food or food additives used as carriers, excipients, or processing aids shall not be considered food or food additives.

"Field duplicate sample" means a sample that is taken in the identical manner and from the same batch, process lot, or lot being sampled as the primary sample. A field duplicate sample is analyzed separately from the primary sample and is used for quality control only.

"Health care practitioner" means the same as defined in Iowa Code section 124E.2.

"Inspection" means an on-site evaluation by the department; the department of public safety; or a department-approved independent consultant of facilities, records, personnel, equipment, methodology, and quality assurance practices for compliance with these rules.

"Investor" means a person making a cash investment of at least 5 percent interest in an applicant or licensed manufacturer or dispensary with the expectation of receiving financial returns.

"Laboratory" means the same as defined in Iowa Code section 124E.2.

"Limit of detection" or *"LOD"* means the lowest quantity of a substance or analyte that can be distinguished from the absence of that substance within a stated confidence limit.

"Limit of quantitation" or *"LOQ"* means the minimum concentration of an analyte in a specific matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision.

"Lot" means a specific quantity of medical cannabidiol that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling record.

"Lot number" means a unique numeric or alphanumeric identifier assigned to a lot by a manufacturer when medical cannabidiol is produced. The lot number shall contain the manufacturer's number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of a lot of medical cannabidiol.

"Manufacture" or *"manufacturing"* means the process of converting harvested cannabis plant material into medical cannabidiol.

"Manufacturer" means an individual or entity licensed by the department to produce medical cannabidiol and distribute it to dispensaries pursuant to Iowa Code chapter 124E and these rules. "Manufacturer" includes the employees and agents of the manufacturer.

"Manufacturing facility" means any secured building, space, grounds, and physical structure of a manufacturer for the cultivation, harvesting, packaging, processing, storage, and distribution of cannabis or medical cannabidiol and where access is restricted to designated employees of a manufacturer and escorted visitors.

"Matrix" means the component or substrate that contains the analyte of interest.

"Matrix spike duplicate" means a duplicate sample prepared by adding a known quantity of a target analyte to a field sample matrix or other matrix that is as closely representative of the matrix under analysis as possible.

"Matrix spike sample" means a sample prepared by adding a known quantity of the target analyte to a field sample matrix or to a matrix that is as closely representative of the matrix under analysis as possible.

"Medical assistance program" means IA Health Link, Medicaid Fee-for-Service, or hawki, as administered by the Iowa Medicaid enterprise of the department.

"Medical cannabidiol" means the same as defined in Iowa Code section 124E.2.

"Medical cannabidiol waste" means medical cannabidiol that is unused, unwanted, damaged, defective, expired, or contaminated and that is returned to a dispensary or manufacturer for disposal.

"Medical cannabis goods" means medical cannabidiol process lots, medical cannabidiol products, and cannabis plant material, including dried tissue.

"Method blank" means an analyte-free matrix to which all reagents are added in the same volumes or proportions as are used in sample preparation.

"National criminal history background check" means fingerprint processing through the department of public safety and the Federal Bureau of Investigation (FBI) and review of records on file with national organizations, courts, and law enforcement agencies to the extent allowed by law.

"Owner" means a person with a 5 percent or greater ownership interest in an applicant or licensed manufacturer or dispensary.

"Patient" means a person who is a permanent resident of the state of Iowa who suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E and these rules.

"Patient registration number" means the unique identification number issued to a patient by the department upon approval of a patient's application by the department as described in these rules.

"Percent recovery" means the percentage of a measured concentration relative to the added (spiked) concentration in a reference material, matrix spike sample, or matrix spike duplicate.

"Plant material" means any plant of *Cannabis sativa* L. or *Cannabis indica*, or any part thereof, including flowers, leaves, trichomes, and tissue.

"Plant material waste" means plant material that is not used in the production of medical cannabidiol in a form allowable under these rules.

"Primary caregiver" means the same as defined in Iowa Code section 124E.2.

"Primary care provider" means any health care practitioner involved in the diagnosis and treatment of a patient's debilitating medical condition.

"Primary sample" means a portion of a batch, process lot, or lot that is used for testing for identity, strength, purity, and composition.

"Process lot" means any amount of cannabinoid concentrate or extract that is uniform, produced from one or more batches, and used for testing for identity, strength, purity, and composition prior to being packaged.

"Product expiration date" means the date after which a medical cannabidiol product shall not be sold by a manufacturer or a dispensary.

"Production" or *"produce"* means:

1. Cultivating or harvesting plant material;
2. Processing or manufacturing; or
3. Packaging of medical cannabidiol.

"Proficiency test" means an evaluation of a laboratory's performance against preestablished criteria by means of interlaboratory comparisons of test measurements.

"Qualitative analysis" means identification of an analyte in a substance or mixture.

"Quality assurance" means a set of operating principles to produce data of known accuracy and precision. "Quality assurance" encompasses employee training, equipment preventative maintenance procedures, calibration procedures, and quality control testing, among other things.

"Quality control" means a set of measures implemented within an analytical procedure to ensure that the measurement system is operating in a state of statistical control in which errors have been reduced to acceptable levels.

"Quality control samples" means samples produced and used for the purpose of ensuring quality control. Quality control samples include but are not limited to blank samples, spike samples, duplicate samples, and reference material samples.

"Reagent" means a compound or mixture added to a system to cause a chemical reaction or to test if a reaction occurs. A reagent may be used to tell whether or not a specific chemical substance is present by causing a reaction to occur with the chemical substance.

"Recall" means the return of medical cannabidiol from patients and dispensaries to a manufacturer because of the potential for serious health consequences from the use of the medical cannabidiol.

"Reference material" means a material containing a known concentration of an analyte of interest that is in solution or in a homogeneous matrix. Reference material is used to document the bias of the analytical process.

"Relative percent difference" or *"RPD"* means a comparative statistic used to calculate precision or random error. RPD is calculated using the following equation: RPD = absolute value (primary sample measurement - duplicate sample measurement) / ([primary sample measurement + duplicate sample measurement] / 2) × 100.

"Requester" means a person who submits a request to a licensed testing laboratory for state-mandated testing of medical cannabis goods. The requester may be a licensed manufacturer or the department.

"Residual solvents and processing chemicals" means volatile organic chemicals that are used or produced in the manufacture or production of medical cannabidiol.

"Restricted access area" means a building, room, or other contiguous area on the premises where plant material is grown, cultivated, harvested, stored, packaged, or processed for sale under control of the manufacturer, and where no person under the age of 18 is permitted.

"Sample" means a representative part of or a single item from a larger whole or group.

"Sanitize" means to sterilize, disinfect, or make hygienic.

"Security alarm system" means the same as defined in rule 661—277.2(100C).

"Semiquantitative analysis" means less than quantitative precision and does not involve a full calibration. Analyte identification is based on a single-point reference or high-probability library match. The determination of amount uses the ratio of the unknown chemical analyte to that of a known analyte added to the sample before analysis. Uncertainty for semiquantitative results is higher than for quantitative results.

"Significant figures" means the number of digits used to express a measurement.

"Stability study" or *"studies"* means the process of determining the shelf-life or expiration date of a medical cannabidiol product. After storage of an unopened package of medical cannabidiol at a licensed manufacturing facility or dispensary facility, the contents shall not vary in concentrations of THC and CBD by more than an amount determined by the department and listed in the laboratory testing requirements and acceptance criteria document described in 641—Chapter 154.

"Standard operating procedure" means a written document that provides detailed instructions for the performance of all aspects of an analysis, operation, or action.

"Synthetic or semisynthetic cannabinoid" means a cannabinoid extracted from a cannabis plant, a cannabis flower, a hemp plant, or hemp plant parts with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. "Synthetic or semisynthetic cannabinoid" includes but is not limited to any tetrahydrocannabinol created from cannabidiol.

"Tamper-evident" means that one or more one-time-use seals are affixed to the opening of a package, allowing a person to recognize whether or not the package has been opened.

"Testing laboratory record" means information relating to the testing laboratory and the analyses it performs that is prepared, owned, used, or retained by the laboratory and includes electronic files and video footage.

"THC" or *"delta-9 THC"* means tetrahydrocannabinol, Chemical Abstracts Service number 1972-08-3.

"THCA" means tetrahydrocannabinolic acid, Chemical Abstracts Service number 23978-85-0.

"Total tetrahydrocannabinol" means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

"Tracking number" means the sales identification number assigned by a dispensary to a transaction at the time of the sale of a medical cannabidiol product.

"Trade name" means the name that manufacturers give to a product or range of products.

"Validation" means the confirmation by examination and objective evidence that the particular requirements for a specific intended use are fulfilled.

"Valid photo identification" means any of the following for a patient or primary caregiver: (1) a valid Iowa driver's license, (2) a valid Iowa nonoperator's identification card, or (3) an alternative form of valid photo identification. An individual who possesses or is eligible for a driver's license or a nonoperator's identification card shall present such document as valid photo identification. An individual who is ineligible to obtain a driver's license or a nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. An individual who applies for an exemption is subject to verification of the primary caregiver's identity through a process established by the department to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

"Vaporization" means the heating of a medical cannabidiol concentrate or extract to a specific temperature using a device. For the purposes of these rules, vaporization does not include raw or dried cannabis flower.

"Written certification" means a document signed by a health care practitioner, with whom the patient has established a patient-provider relationship, that states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

REGISTRATION CARDS

641—154.2(124E) Health care practitioner certification—duties and prohibitions.

154.2(1) Prior to a patient's submission of an application for a medical cannabidiol registration card pursuant to this rule, a health care practitioner shall follow all provisions of Iowa Code section 124E.3, this chapter and requests from the department for more information.

a. The written documentation required by Iowa Code section 124E.3(1)*"a"* shall be submitted on the application form at the department's website.

b. Explanatory information pursuant to Iowa Code section 124E.3(1)*"b"* is located at the department's website.

154.2(2) A health care practitioner may make a written request to the department to rescind a written certification the practitioner previously provided, based on reasons deemed appropriate by the health care practitioner.

154.2(3) Health care practitioner prohibitions. A health care practitioner shall not:

a. Accept, solicit, or offer any form of remuneration from or to any individual, including but not limited to a patient, a primary caregiver, or an employee, investor, or owner of a manufacturer or dispensary for the purposes of:

(1) Certifying a patient's condition, other than accepting a fee for a patient consultation to determine if the patient should be issued a certification under Iowa Code chapter 124E.

(2) Certifying an individual as a primary caregiver, other than accepting a fee for a consultation to determine if the individual is a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol.

b. Advertise the certification of patients as one of the health care practitioner's services.

c. Certify a qualifying debilitating medical condition for a patient who is the health care practitioner or a family or household member of the health care practitioner.

d. Be designated to act as a primary caregiver for a patient for whom the health care practitioner has certified a qualifying debilitating medical condition.

e. Receive or provide medical cannabidiol product samples.

641—154.3(124E) Medical cannabidiol registration card—application and issuance to patient.

154.3(1) The department may issue a registration card to a patient who meets the criteria listed at Iowa Code section 124E.4(1). The application form is available on the department's website. The department shall not approve an application that does not include the information requested on the application form.

154.3(2) Upon the completion, verification, and approval of the patient's application and the receipt of the required fee, the department shall issue a registration card to the patient.

154.3(3) A registration card issued to a patient shall contain all of the following:

a. The patient's full legal name, Iowa residence address, date of birth, and sex designation, as shown on the patient's valid photo identification. If the patient's information has changed since the issuance of the patient's valid photo identification, the patient shall first update the patient's valid identification to reflect the patient's current information.

b. The date of issuance and the date of expiration, which shall be one year from the date of issuance.

c. A distinguishing registration number that is not the patient's social security number.

d. A statement that the registration card is not valid for identification purposes.

154.3(4) Every patient 18 years of age or older must obtain a valid registration card to use medical cannabidiol in Iowa.

154.3(5) An authorization to use medical cannabidiol or cannabis for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of Iowa Code chapter 124E and is not a valid registration card for purposes of purchasing medical cannabidiol at dispensaries in Iowa.

641—154.4(124E) Medical cannabidiol registration card—reciprocity. A medical cannabidiol registration card shall hold reciprocity with other states pursuant to Iowa Code section 124E.18.

154.4(1) A patient with a valid registration card from another state or jurisdiction shall maintain the affirmative defense for possession of medical cannabidiol, provided the form of cannabis product in the patient's possession is allowable in Iowa.

154.4(2) A patient with a valid registration card under the laws of another state or jurisdiction has no affirmative defense for medical cannabidiol if the cannabis product in the patient's possession is prohibited in Iowa. Prohibited forms of medical cannabidiol include:

a. Raw cannabis flower that may be combusted or smoked;

b. Edible products with a total THC concentration greater than 0.3 percent that is not a consumable hemp product.

641—154.5(124E) Medical cannabidiol registration card—application and issuance to primary caregiver.

154.5(1) For a patient in a primary caregiver's care, the department may issue a registration card to a primary caregiver who meets the criteria listed at Iowa Code section 124E.4(3). The application form is available on the department's website. The department shall not approve an application that does not include the information requested on the application form.

154.5(2) Upon the completion, verification, and approval of the primary caregiver's application, the department shall issue a registration card to the primary caregiver.

154.5(3) A registration card issued to a primary caregiver shall contain all of the following:

a. The primary caregiver's full legal name, current residence address, date of birth, and sex designation, as shown on the primary caregiver's valid photo identification. If the primary caregiver's information has changed since issuance of the primary caregiver's valid photo identification, the primary caregiver shall first update the primary caregiver's valid photo identification to reflect the primary caregiver's current information.

b. The date of issuance and the date of expiration, which shall be one year from the date of issuance.

c. A distinguishing registration number that is not the primary caregiver's social security number.

d. The registration number for each patient in the primary caregiver's care. This number shall not be the primary caregiver's or patient's social security number. If the patient in the primary caregiver's care is under the age of 18, the full name of the patient's parent or legal guardian shall be printed on the primary caregiver's registration card in lieu of the patient's registration number.

e. A statement that the registration card is not valid for identification purposes.

f. A statement distinguishing the registration cardholder as a primary caregiver.

154.5(4) An authorization to use, or to act as a primary caregiver for a patient authorized to use, medical cannabidiol or cannabis for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of Iowa Code chapter 124E and is not a valid registration card for purposes of purchasing medical cannabidiol at dispensaries in Iowa.

641—154.6(124E) Denial and cancellation. The department may deny an application for a registration card, or may cancel a registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.
2. The department is unable to verify the identity of the applicant from the photo identification or other documentation presented during application.
3. The department has reasonable belief, or proof, that the patient is engaged in diversion of medical cannabidiol.
4. The applicant violates or fails to satisfy any of the provisions of Iowa Code chapter 124E or these rules.
5. A patient, the patient's legal guardian, or other person with durable power of attorney requests in writing that the department cancel the patient's registration card. The department shall notify a primary caregiver in writing when the registration card of the primary caregiver's patient has been canceled.
6. A primary caregiver requests in writing that the department cancel the primary caregiver's registration card. The department shall notify a patient in writing when the registration card of the patient's primary caregiver has been canceled.
7. The department becomes aware of the death of a patient or primary caregiver.
8. A health care practitioner requests in writing that the department rescind the written certification the practitioner provided to a patient or caregiver.
9. A patient requests in writing that the department cancel the patient's primary caregiver's registration card.

641—154.7(124E) Appeal.

154.7(1) *Written notice of denial or cancellation.* If the department denies an application for or cancels a registration card, the department shall inform the applicant or cardholder of the denial or cancellation, state the reasons for the denial or cancellation in writing, and state the effective date of the denial or cancellation. If the department cancels a card upon request from a patient or primary caregiver, or the department becomes aware of the death of a patient or primary caregiver, the cancellation is effective immediately upon issuance of the written notice of cancellation. If the department cancels a card upon any other ground listed, the cancellation shall become effective 30 days following issuance of the written notice of cancellation.

154.7(2) *Effect of written notice of cancellation on use and possession of medical cannabidiol.* A cardholder is authorized to purchase, possess, and use medical cannabidiol up to and including the effective date of the cancellation. For purposes of the affirmative defenses in Iowa Code section 124E.12, a patient or primary caregiver shall be deemed to be in possession of a valid registration card up to and including the effective date of the cancellation.

154.7(3) *Request for appeal.* A request for appeal concerning the denial or cancellation of a registration card shall be submitted pursuant to the provisions of 441—Chapter 7. In the event of a timely appeal, cancellation of the card shall be deemed to be suspended pending the outcome of the contested case proceeding. If the cancellation is affirmed following the contested case proceeding, the card cancellation shall become effective 30 days following issuance of the department's final agency action.

641—154.8(124E) Duplicate card.

154.8(1) *Lost, stolen, or destroyed card.* To replace a registration card that is lost, stolen, or destroyed, a cardholder shall present to the department the cardholder's valid photo identification that was provided at the time of application.

154.8(2) *Change in card information and voluntary replacement.*

a. To replace a registration card that is damaged, the cardholder shall surrender the card to be replaced to the department and present the cardholder's valid photo identification that was provided at the time of application.

b. A patient or primary caregiver to whom a registration card is issued shall notify the department of a change in information listed on the card, within ten calendar days of the change. To replace a registration card to change the patient or primary caregiver's information, the cardholder shall surrender the card to be replaced to the department and present the patient or primary caregiver's updated valid photo identification.

c. To replace a registration card held by a primary caregiver to change, add, or remove a patient's registration number or the name of a patient's parent or legal guardian listed on the primary caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.5(124E). A registration card issued pursuant to this paragraph shall not be considered a duplicate card.

154.8(3) *Expiration date.* A duplicate registration card shall have the same expiration date as the registration card being replaced, changed, or amended.

641—154.9(124E) Renewal. A registration card shall be valid for one year from the date of issuance, unless canceled. Renewal of a registration card will follow the application and issuance rules of this chapter.

641—154.10(124E) Confidentiality. The department will follow the confidentiality provisions in Iowa Code section 124E.11(1).

154.10(1) Personally identifiable information of patients and primary caregivers will be maintained as confidential and is not accessible to the public. The department will release aggregate and statistical information regarding the registration card program in a manner that prevents the identification of any patient or primary caregiver.

154.10(2) Personally identifiable information of patients and primary caregivers may be disclosed only pursuant to Iowa Code section 124E.11(1)*"b"* and to a patient, primary caregiver, or health care practitioner, upon written authorization of the patient or primary caregiver.

641—154.11(124E) Fees. All fees are nonrefundable. Application fees are established in Iowa Code section 124E.4.

641—154.12(124E) Consumption of medical cannabidiol. In accordance with Iowa Code section 124E.12, patients and caregivers are entitled to a complete and affirmative defense for unlawful possession of marijuana. Medical cannabidiol is intended to be consumed privately, and patients are subject to all applicable laws regarding public impairment and operating a vehicle, including but not limited to Iowa Code section 123.46 and chapter 321J. Medical cannabidiol products shall not be consumed in the following places:

a. In places open to the public, except for within a health care facility if pursuant to the standard operating procedures of the health care facility.

b. On the property of a school, unless pursuant to the standard operating procedure of the school.

c. On the property of a medical cannabidiol dispensary or manufacturer.

641—154.13(124E) Allowable forms of medical cannabidiol.

154.13(1) *Modification of allowable forms.* Allowable forms of medical cannabidiol may be modified by approval of a recommendation by the medical cannabidiol board, subsequent approval of the board of medicine, and adoption of the recommendations by the department.

154.13(2) *Allowable forms.*

a. A manufacturer may only manufacture medical cannabidiol in the following forms:

(1) Oral forms, including but not limited to:

1. Tablet.
2. Capsule.
3. Liquid.
4. Tincture.
5. Sublingual.

(2) Topical forms, including but not limited to:

1. Gel.
2. Ointment, cream or lotion.
3. Transdermal patch.

(3) Inhaled forms, limited to:

1. Nebulizable.
2. Vaporizable.

(4) Rectal/vaginal forms, including but not limited to suppository.

b. A manufacturer shall not produce medical cannabidiol in any form that may be smoked.

c. A manufacturer shall not produce edible medical cannabidiol products.

MANUFACTURER AND DISPENSARY LICENSING

641—154.14(124E) Notice to law enforcement. The department shall notify local law enforcement agencies and the department of public safety of the locations of manufactures and dispensaries. If the department has sufficient cause to believe that there is a threat to public safety, the department shall notify local law enforcement agencies and the department of public safety.

641—154.15(124E) Manufacturer and dispensary licensure.

154.15(1) To be eligible for licensure, an applicant manufacturer or dispensary shall complete a background investigation pursuant to Iowa Code section 124E.19. Applicants must provide information on forms and in a manner required by the department of public safety.

154.15(2) The license shall be renewed annually unless a manufacturer or dispensary relinquishes the license, there is a change in state law prohibiting the department from renewing the license, or the license is revoked pursuant to Iowa Code chapter 124E or these rules.

154.15(3) A license to manufacture or dispense medical cannabidiol issued by the department is not assignable or transferable unless for the purpose of intra-organization restructure, subject to review and approval by the department.

641—154.16(124E) Collection of fees in competitive licensing. Except as provided in this rule, all fees are nonrefundable, shall be retained by the department, and shall be considered repayment receipts as defined in Iowa Code section 8.2.

154.16(1) *Fees to the department for manufacturers and dispensaries.*

a. Fees for manufacturing applicants are established by Iowa Code section 124E.6(4). Fees for dispensary applicants are established by Iowa Code section 124E.8(4).

b. Licensed manufacturers and dispensaries shall pay an annual fee to the department to cover costs associated with regulating and inspecting, and for other expenses necessary for the administration of the medical cannabidiol program. The department shall assess the fee with the notice of approval of license, payable to the department no later than December 1. Annual fees assessed by the department shall not exceed $100,000 for a manufacturing license and shall not exceed $50,000 for a dispensary license.

154.16(2) *Fees to the department of public safety.*

a. An applicant manufacturer or dispensary shall reimburse the department of public safety the full cost of conducting background investigations related to an application for licensure. The department of public safety retains the right to bill a licensee for additional background investigations, as needed.

b. Each manufacturer or dispensary awarded a license shall, at the time of award to license, submit to the department of public safety a deposit of $10,000 for each business owner subject to a background investigation and a national criminal history background check. Background investigation costs shall be deducted from the funds deposited. If the background investigation fees exceed the funds deposited, the applicant shall submit additional funds as required by the department of public safety. If the background investigation fees are less than the funds deposited, the department of public safety may refund or retain the fees as mutually agreed with the manufacturer or dispensary.

c. A licensed manufacturer or dispensary shall pay a deposit of $200 per employee to the department of public safety for a background investigation and a national criminal history background check on any person being considered for hire as an employee of the manufacturer or dispensary. Background investigation costs shall be deducted from the funds deposited. If the background investigation fees exceed the funds deposited, the manufacturer or dispensary shall submit additional funds as required by the department of public safety. If the background investigation fees are less than the funds deposited, the department of public safety may refund or retain the fees as mutually agreed with the manufacturer or dispensary. The department shall retain the right to preclude a potential employee from hire based upon the results of the background investigation and national criminal history background check.

154.16(3) *Criminal background checks.*

a. A manufacturer or the owner of a dispensary shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history record check.

b. An employee of a manufacturer or a dispensary shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history background check.

c. An applicant or licensed manufacturer or dispensary shall respond within 30 days to a request from the department or the department of public safety for more information to complete a background investigation and national criminal history background check on an owner, investor, or employee.

641—154.17(124E) Licensure renewal.

154.17(1) A licensed manufacturer or dispensary shall apply to renew its license with the department at least six months before the license expires. The application shall be submitted on a form on the department's website.

154.17(2) The department shall notify a manufacturer or dispensary of the decision to approve or deny the manufacturer or dispensary's license by August 1 of the year in which the renewal application is submitted.

641—154.18(124E) Suspension or revocation of a manufacturing or dispensary license.

154.18(1) The department may suspend or revoke a manufacturer or dispensary license upon any of the following grounds:

a. Submission of false, inaccurate, misleading, or fraudulent information to the department in the application or inspection processes.

b. Failure to submit required reports and documents.

c. Violation of Iowa Code chapter 124E or these rules, or violation of state or local law related to operation of the licensee.

d. Conduct or practices detrimental to the safety, health, or welfare of a patient, primary caregiver, or the public.

e. Criminal, civil, or administration action taken against a license or registration in this or another state or country related to manufacturing or dispensing medical cannabidiol.

f. False, misleading, or deceptive representations to the department, another state or federal agency, or a law enforcement agency.

g. Discontinuance of operation for more than 30 days, unless the department approves an extension of such period for good cause shown.

h. Failure to maintain effective controls against diversion, theft, or loss of medical cannabidiol.

i. Failure to correct a deficiency within the time frame required by the department.

j. Failure of a manufacturer or dispensary's business owner or investors to have a satisfactory result in a background investigation or national criminal history background check as determined by the department.

154.18(2) The department shall notify the manufacturer or dispensary of the proposed action pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

154.18(3) A request for appeal concerning the suspension or revocation of a license shall be submitted pursuant to the provisions of 441—Chapter 7.

641—154.19(124E) Assessment of penalties. The department shall assess to a manufacturer a civil penalty of up to $1,000 per violation of Iowa Code chapter 124E or these rules in addition to other applicable penalties.

641—154.20(124E) Closure of operations.

154.20(1) A manufacturer or dispensary shall notify the department at least six months before the closure of the manufacturing facility.

154.20(2) If a manufacturer or dispensary ceases operation, the manufacturer or dispensary shall work with the department to verify the remaining inventory of the manufacturer or dispensary and ensure that any plant material, plant material waste, medical cannabidiol products, or combination thereof are destroyed at a waste facility or returned to a manufacturer.

641—154.21(124E) Manufacturer and dispensary security requirements.

154.21(1) *Restricted access.* A manufacturer or dispensary shall limit entrance to all restricted areas by completing all of the following:

a. Mark restricted access areas with signs that state: "Do Not Enter—Restricted Access Areas Access Limited to Authorized Personnel Only".

b. Use a controlled access system that:

(1) Limits access to authorized individuals;

(2) Maintains a log of individuals with approved access, including dates of approvals and revocations;

(3) Tracks times of personnel entry to and exit from the facility;

(4) Stores data for retrieval for a minimum of one year; and

(5) Limits access to authorized individuals in the event of a power failure.

c. If the controlled access system cannot electronically record visitors, visitors to restricted access areas sign manifests with name, date, and times of entry and exit. These manifests shall be kept and stored for a minimum of one year.

d. Visitors wear badges that are visible at all times and identify them as visitors.

e. If requested by the department, submit stored controlled access system data to the department within five business days.

154.21(2) *Perimeter intrusion detection system.*

a. Computer-controlled video surveillance system. A manufacturer or dispensary shall operate and maintain a computer-controlled, closed-circuit television surveillance system on its premises that operates 24 hours per day, seven days per week, and visually records:

(1) All phases of medical cannabidiol production, if applicable;

(2) All areas that might contain plant material, medical cannabidiol, or both;

(3) All points of entry and exit;

(4) The entrance to the video surveillance control room; and

(5) Parking areas, which shall have appropriate lighting for the normal conditions of the area under surveillance.

b. Camera specifications. Cameras shall:

(1) Capture clear and certain identification of any person entering or exiting a manufacturer or dispensary or its parking areas;

(2) Produce a clear, color still photograph live or from a recording;

(3) Have an embedded date-and-time stamp that is synchronized to the recording and does not obscure the picture; and

(4) Continue to operate during a power outage.

c. Video recording specifications. Video recording equipment shall:

(1) Export still images in an industry standard image format, such as .jpg, .bmp, or .gif;

(2) Archive exported video in a format that ensures authentication and guarantees that the recorded image has not been altered; and

(3) Save exported video in an industry standard file format that can be played on a standard computer operating system.

d. Location. A dispensary shall maintain all security system equipment and recordings in a secure location to prevent theft, loss, destruction, corruption, and alterations.

e. Retention. A manufacturer or dispensary shall ensure that recordings from all video cameras are:

(1) Available for viewing by the department upon request;

(2) Retained for at least 60 days; and

(3) Maintained free of alteration or corruption.

f. Required signage. A manufacturer or dispensary shall post a sign in capital letters in a conspicuous location at every entrance to the manufacturing facility or dispensary that reads, "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE."

154.21(3) *Security alarm system requirements.*

a. A manufacturer or dispensary shall use a professionally monitored security alarm system that provides intrusion and fire detection of all the following:

(1) Dispensary entrances and exits;

(2) Facility entrances and exits;

(3) Rooms with exterior windows;

(4) Rooms with exterior walls;

(5) Roof hatches;
(6) Skylights; and
(7) Storage rooms.

b. A manufacturer or dispensary's security alarm system and all devices shall continue to operate during a power outage.

c. A manufacturer or dispensary shall provide documentation of the annual inspection and device testing, by a qualified alarm vendor, to the department upon request.

154.21(4) *Personnel identification system.* A manufacturer or dispensary shall use a personnel identification system that controls and monitors individual employee access to restricted access areas.

a. An employee identification card shall contain:
(1) The name of the employee;
(2) The date of issuance and expiration;
(3) An alphanumeric identification number that is unique to the employee; and
(4) A photographic image of the employee.

b. A manufacturer or dispensary's employee shall keep the identification card visible at all times when the employee is in a manufacturing facility, a dispensary, or a vehicle transporting medical cannabidiol.

c. Upon termination or resignation of an employee, a manufacturer or dispensary shall immediately:
(1) Revoke the employee's access to the manufacturing facility or dispensary; and
(2) Destroy the employee's identification card, if possible.

641—154.22(124E) Advertising and marketing.

154.22(1) *Permitted marketing and advertising activities.* A manufacturer or dispensary must include medical cannabidiol pricing and hours of operation on its website and may do the following:

a. Display the manufacturer or dispensary's business name and logo on medical cannabidiol labels, signs, website, and informational material provided to patients. The name or logo shall not include:
(1) Images of cannabis or cannabis-use paraphernalia;
(2) Colloquial references to cannabis;
(3) Names of cannabis plant strains or varieties;
(4) Unsubstantiated medical claims; or
(5) Medical symbols that bear a reasonable resemblance to established medical associations.

b. Display signs on the manufacturing facility or dispensary; and

c. Maintain a business website that contains the following information:
(1) The manufacturer or dispensary's name and contact information;
(2) The medical cannabidiol forms and quantities manufactured or available in Iowa; and
(3) Other information as approved by the department.

154.22(2) *Prohibited conduct, statements and illustration.*

a. An advertisement for medical cannabidiol shall not contain:
(1) Colloquial references to cannabis;
(2) Names of cannabis plant strains or varieties;
(3) Any statement that is false or misleading;
(4) Any statement that disparages a competitor's products;
(5) Any statement, design, or representation, picture or illustration that is obscene or indecent;
(6) Any statement, design, representation, picture or illustration that reasonably appeals to or targets children. Appealing to children means:
1. When taken literally or as a plan language reading, there is a resemblance to food or product used by children;
2. Contains child-appealing visuals/graphics, such as intense colors, bubble letters, or other interesting fonts or lettering;
3. Unconventional or interesting product names;
4. Unconventional or unexpected flavor, color, or shape of the product;

5. Games or activities present on the package; or

6. Presence of branded characters, spokespersons, licensed characters, cartoons, or celebrities;

(7) Any statement, design, representation, picture or illustration that encourages or represents the use of medical cannabidiol for a condition other than a qualifying debilitating medical condition;

(8) Any statement, design, representation, picture or illustration that encourages or represents the recreational use of medical cannabidiol or marijuana, tobacco or nicotine products, or alcohol;

(9) Any statement, design, representation, picture or illustration related to the safety or efficacy of medical cannabidiol, unless supported by substantial evidence, substantial clinical data, direct patient testimonials, or combination thereof;

(10) Any statement, design, representation, picture or illustration portraying anyone reasonably appearing to be under the age of 18, objects suggestive of the presence of anyone under the age of 18, or containing the use of a figure, symbol or language that is customarily associated with anyone under the age of 18, except that an advertisement may address medical cannabidiol products as they relate to minor patients;

(11) Any offer of a prize, award or inducement to a qualifying patient, primary caregiver, or health care practitioner related to the purchase of medical cannabidiol or a certification for the use of medical cannabidiol, except that non-product-specific price discounts are allowed;

(12) Any statement or assertion that medical cannabidiol products are safe because they are regulated under this chapter or have been tested by an approved laboratory;

(13) Any reference to a prohibited form of medical cannabidiol;

(14) Any statement that claims that medical cannabidiol products are endorsed or supported by any government agency; or

(15) Any statement that indicates or implies that the product or entity in the advertisement has been approved or endorsed by the department, the state of Iowa or any person or entity associated with the state of Iowa.

b. A manufacturer or dispensary shall not engage in any of the following activities:

(1) Host, promote, refer, or otherwise advertise a third-party patient certification service;

(2) Engage in any advertising, marketing, or branded educational activities within 1,000 feet of a school;

(3) Host, promote, sponsor, or otherwise participate in a cannabis consumption lounge or other such encouragement of public consumption of cannabis or medical cannabidiol; or

(4) Advertise, or make reference to, non-approved forms of medical cannabidiol in any of its advertisements, including but not limited to:

1. Referring to an approved form of medical cannabidiol as a prohibited form of medical cannabidiol.

2. Advertising non-approved forms of medical cannabidiol. Consumable hemp products regulated under Iowa Code chapter 204 and 641—Chapter 156 are exempt from this provision.

154.22(3) *Review of advertisements by the department.* Any advertisement for medical cannabidiol shall be submitted to the department, on a form or in a format prescribed by the department, at the same time as, or prior to, the dissemination of the advertisement.

a. The department may:

(1) Require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the department determines that the advertisement would be false or misleading without such a disclosure; or

(2) Require changes that are necessary to protect the public health, safety and welfare; or

(3) Require statements for inclusion in the advertisement to address the specific efficacy of medical cannabidiol as it relates to specific disease states or approved debilitating medical conditions, disease symptoms, and population groups.

b. The department reserves the right to require that a licensee amend or remove a public advertisement.

641—154.23(124E) Sales and inventory tracking system. The department shall establish and maintain a secure, electronic system that is available 24 hours per day, seven days per week to track:

1. Inventory of plant material and medical cannabidiol;
2. Transport of plant material and laboratory samples;
3. Application and use of crop inputs and other solvents and chemicals;
4. Sales of medical cannabidiol to dispensaries;
5. Sales of medical cannabidiol from dispensaries to patients and primary caregivers.

641—154.24(124E) Financial transactions.

154.24(1) A manufacturer or dispensary shall maintain records that reflect all financial transactions and the financial condition of the business.

154.24(2) The following records shall be maintained for at least five years and made available for review upon request of the department:

a. Purchase invoices, bills of lading, sales records, copies of bills of sale, and any supporting documents, including the items or services purchased, from whom the items were purchased, and the date of purchase;

b. Bank statements and canceled checks for all business accounts;

c. Accounting and tax records; and

d. Records of all financial transactions, including contracts and agreements for services performed or services received.

641—154.25(124E) Inspection by department or independent consultant. A manufacturer or dispensary is subject to reasonable inspection by the department, a department-approved consultant, or another agency pursuant to Iowa Code chapter 124E and these rules and as authorized by laws and regulations.

154.25(1) *Types of inspections.* Inspections may include:

a. Aspects of the business operations;

b. The manufacturing facility or the physical location of a dispensary, including any storage facility;

c. Vehicles used for transport or delivery of medical cannabidiol or plant material;

d. Financial information and inventory documentation;

e. Physical and electronic security alarm systems;

f. Health and sanitary inspection; and

g. Other inspections as determined by the department.

154.25(2) *Compliance required.* A manufacturer or dispensary shall respond to deficiencies found during inspections or inventory reconciliation as follows:

a. Deficiencies not related to inventory reconciliation.

(1) Upon written notification by the department of deficiencies that do not involve reconciliation of inventory, a manufacturer or dispensary shall have up to 30 days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.

(2) The department shall have up to two weeks to accept or require revision of the action plan.

b. Deficiencies related to inventory reconciliation.

(1) Upon notifying the department that the manufacturer or dispensary cannot reconcile the physical inventory with the inventory recorded in the secure sales and inventory tracking system, the manufacturer or dispensary shall have up to two business days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.

(2) The department shall have up to two business days to accept or require revision of the action plan.

(3) Failure to complete actions in the action plan within the timelines mutually agreed upon by the manufacturer and the department shall result in assessment of penalties or in suspension or revocation of a manufacturer or dispensary license.

(4) At the department's request and in a timely manner, a manufacturer or dispensary shall pay for and undergo an independent health and sanitary inspection in accordance with this rule.

MANUFACTURING

641—154.26(124E) Manufacturer operations.

154.26(1) *Operating documents.*

a. A manufacturer shall maintain operating documents that accurately reflect the manufacturer's standard operating procedures. Unless otherwise noted, a manufacturer shall make the operating documents available to the department upon request, through secure means.

b. The operating documents of a manufacturer shall include all of the following:

(1) Procedures for the oversight of the manufacturer, including descriptions of operational and management practices regarding:

1. The forms and quantities of medical cannabidiol products that are produced at the manufacturing facility;
2. The methods of planting, harvesting, drying, and storing cannabis. A manufacturer may make operating documents for these procedures available on site only;
3. The estimated types and amounts of all crop inputs used in the production of medical cannabidiol;
4. The disposal methods for all waste materials;
5. Employee training methods for the specific phases of production. A manufacturer may make operating documents for these procedures available on site only;
6. Biosecurity measures and standard operating procedures used in the production and manufacturing of medical cannabidiol. A manufacturer may make operating documents for these procedures available on site only;
7. Strategies for identifying and reconciling discrepancies in inventory of plant material or medical cannabidiol;
8. Sampling strategy and quality testing for labeling purposes. A manufacturer may make operating documents for these procedures available on site only;
9. Medical cannabidiol packaging and labeling procedures;
10. Procedures for recall of medical cannabidiol;
11. Plans for responding to a security breach at a manufacturing facility or while medical cannabidiol is in transit to a dispensary. A manufacturer may make operating documents for these procedures available on site only;
12. A business continuity plan. A manufacturer may make this operating document available on site only;
13. Records relating to all transport activities; and
14. Other information requested by the department.

(2) Procedures to ensure accurate recordkeeping.

(3) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas containing medical cannabidiol. A manufacturer may make operating documents for these procedures available on site only.

154.26(2) *Prohibited activities.* In addition to following all provisions of Iowa Code section 124E.7, a manufacturer shall not:

a. Produce or manufacture medical cannabidiol in any location except in those areas approved by the department;

b. Sell, deliver, transport, or distribute medical cannabidiol from any location except its manufacturing facility or a dispensary facility;

c. Produce or manufacture medical cannabidiol in Iowa for sales or distribution outside of Iowa;

d. Sell or distribute medical cannabidiol to any person or business other than a dispensary or manufacturer licensed by the department under Iowa Code chapter 124E;

e. Refuse to sell, deliver, transport, or distribute medical cannabidiol in any form or quantity produced by the manufacturer to a dispensary, unless deemed appropriate in the manufacturer's reasonable business judgment and approved by the department in writing;

f. Transport or deliver medical cannabidiol to any location except as allowed in subrule 154.22(1);

g. Introduce synthetic or semisynthetic cannabinoids derived from hemp into medical cannabidiol products;

h. Produce synthetic or semisynthetic cannabinoids within the licensed manufacturing facility.

641—154.27(124E) Recordkeeping requirements.

154.27(1) *Manufacturer sales and distribution.* A manufacturer shall maintain complete and accurate electronic sales transaction records in the department's secure sales and inventory tracking system, including:

a. The date of each sale or distribution;

b. The item number, product name and description, and quantity of medical cannabidiol sold or otherwise distributed; and

c. The sale price.

154.27(2) *Manufacturer operations and inventory reporting other records.*

a. A manufacturer or dispensary shall maintain the following for at least five years, unless otherwise noted, and provide to the department upon request:

(1) All personnel records;

(2) Records of any theft, loss, or other unaccountability of any medical cannabidiol or plant material;

(3) Transportation manifests and incident reports; and

(4) Records of all samples sent to a testing laboratory and the quality assurance test results.

b. A manufacturer or dispensary shall maintain for at least one year and provide to the department upon request its controlled access system data and visitor manifests.

154.27(3) *Manufacturer entry into the secure sales and tracking system.*

a. A manufacturer or dispensary shall use the secure sales and inventory tracking system to maintain the following:

(1) Batch and harvest records;

(2) Crop input and additive records;

(3) Extraction and production records;

(4) Transportation records;

(5) Inventory records;

(6) Solvent and processing chemical records; and

(7) Other records as determined by the department.

b. Unless otherwise provided in these rules, a manufacturer shall adhere to the following schedule for entering data into the secure sales and inventory tracking system. A manufacturer shall enter data in real time for data related to:

(1) Transport of medical cannabidiol, plant material, and laboratory samples;

(2) Sales of medical cannabidiol to dispensaries;

(3) The creation of process lots containing a unique identifier; and

(4) The creation of package lots containing a unique identifier.

c. A manufacturer shall enter inventory reports on key inventory events into the secure sales and inventory tracking system within five business days in which the event occurred. These inventory reports include but are not limited to:

(1) Batch reports;

(2) Crop input and additive reports;

(3) Harvest reports;

(4) Extraction reports;

(5) Solvent and processing chemical reports;

(6) Package lot reports;

(7) Certificates of analysis from a laboratory;

(8) Other records as determined by the department.

d. State of Iowa manufacturer API guide. The department shall maintain a document describing the IT requirements and acceptance criteria for reporting information to the secure sales and inventory tracking system. The department shall provide manufacturers no less than 14 days in which to comment on proposed revisions to the document, and the department shall provide no less than 30 days' notice before a revision takes effect. The document shall include:

(1) The schedule and means of data reporting;

(2) Integration requirements for third-party vendors; and

(3) Be available on the department's website (hhs.iowa.gov).

641—154.28(124E) Recall of medical cannabidiol products. Medical cannabidiol products may be recalled in the following ways:

154.28(1) Voluntarily by a licensed manufacturer.

154.28(2) By the department. If the department determines, based on an evaluation, that there is a reasonable probability that use of, or exposure to, a violative medical cannabidiol product will cause a serious adverse health consequence or death, the department may require a manufacturer to recall such violative medical cannabidiol products from dispensaries. An evaluation of the health hazard presented by medical cannabidiol being considered for recall shall be conducted by an ad hoc committee of scientists appointed by the department and shall consider, but need not be limited to, each of the following factors:

a. Whether any disease or injuries have already occurred from the product.

b. Whether any existing conditions could contribute to a clinical situation that could expose humans to a health hazard. Any conclusion shall be supported as completely as possible by scientific documentation, statements, or both that the conclusion is the opinion of the individual(s) making the health hazard determination.

c. A holistic assessment of the hazard and its present and future potential consequences.

641—154.29(124E) Quality assurance and control.

154.29(1) *Quality control program.* A manufacturer shall develop and implement a written quality assurance program that assesses the chemical and microbiological composition of medical cannabidiol. Assessment includes a profile of the active ingredients, including stability studies, and the presence of inactive ingredients and contaminants. A manufacturer shall use these testing results to determine appropriate storage conditions and product expiration dates.

154.29(2) *Sampling protocols.* A manufacturer shall develop and follow written procedures for sampling medical cannabidiol that require the manufacturer to:

a. Conduct sample collection in a manner that provides analytically sound and representative samples;

b. Document every sampling event and provide this documentation to the department upon request;

c. Describe all sampling and testing plans in written procedures that include the sampling method and the number of units per lot to be tested;

d. Ensure that random samples from each lot are:

(1) Taken in an amount necessary to conduct the applicable test;

(2) Labeled with the lot number; and

(3) Submitted for testing;

e. Retain the results from the random samples for at least five years; and

f. Notify the department at least two business days prior to sample collection and allow the department or its designees to be present to observe the sampling procedures when the samples are to be sent to a laboratory for testing.

154.29(3) *Sampling and testing.* A manufacturer shall:

a. Work with the department and laboratory personnel to develop acceptance criteria for contaminants, including but not limited to cannabinoid content, metals, microbiological impurities, solvents, or other contaminants that the manufacturer uses in cultivating and producing medical cannabidiol;

b. Conduct sampling and testing of plant material and medical cannabidiol lots using acceptance criteria that are protective of patient health. Sampling method results shall be approved by the department and laboratory personnel and shall ensure that lots of medical cannabidiol are homogenous and representative of the process or package lot;

c. Reject and destroy medical cannabidiol from a lot that fails to meet established standards, and any other relevant quality control criteria, when remixing and retesting are not warranted;

d. Develop and follow a written procedure for responding to results failing to meet established standards, and any other relevant quality control criteria, including:

(1) Criteria for when remixing and retesting are warranted;

(2) Instructions for destroying contaminated or substandard medical cannabidiol when remixing and retesting are not warranted; and

(3) Instructions for determining the source of contamination;

e. Retain documentation of test results, assessment, and destruction of medical cannabidiol for at least five years.

154.29(4) *Stability testing.*

a. The quality assurance program shall include procedures for performing stability testing of each product type produced to determine product expiration dates. The procedures shall describe:

(1) Sample size and test intervals based on departmental guidance pursuant to subrule 154.47(1);

(2) Storage conditions for samples retained for testing; and

(3) Reliable and specific test methods.

b. Stability studies shall include:

(1) Medical cannabidiol testing at appropriate intervals; and

(2) Medical cannabidiol testing in the same container-closure system in which the medical cannabidiol is marketed and dispensed.

c. If product-expiration-date studies have not been completed, a manufacturer shall assign a tentative product expiration date, not to exceed one year, based on any available stability information.

d. If a manufacturer determines a product expiration date beyond one year, a manufacturer shall submit justification to the department, and receive approval, prior to labeling a product with an expiration date beyond one year.

154.29(5) *Reserve samples.*

a. A manufacturer shall retain a uniquely labeled reserve sample that represents each lot of medical cannabidiol and store the reserve sample under conditions consistent with product labeling. The reserve sample shall be stored in the same immediate container-closure system in which the medical cannabidiol is marketed or in one that has similar characteristics. The reserve sample shall consist of at least twice the quantity necessary to perform all the required tests.

b. A manufacturer shall retain the reserve for at least one year from the date of manufacture.

c. After one year from the date of manufacture, reserve samples shall be destroyed.

154.29(6) *Retesting.* If the department deems that public health may be at risk, the department may require the manufacturer to retest any sample of medical cannabidiol.

154.29(7) *Disposal of substandard product.* A manufacturer shall dispose of all medical cannabidiol when samples fail to meet established standards, and other relevant quality control criteria.

154.29(8) *Recall procedures.* Each manufacturer shall establish a procedure for recalling product from the market that has a reasonable probability of causing an unexpected or harmful response in a patient population, despite appropriate use, that outweighs the potential benefit of the medical cannabidiol. This procedure shall include:

a. Factors that make a recall necessary;

b. Manufacturer’s personnel who are responsible for overseeing the recall; and

c. How to notify affected parties of a recall.

641—154.30(124E) Packaging and labeling.

154.30(1) *Trade names.* A manufacturer's medical cannabidiol trade names shall comply with the following:

a. Names shall be limited to those that clearly reflect the form's medical cannabidiol nature;

b. Any name that is identical to, or similar to, the name of an existing nonmedical cannabidiol product is prohibited;

c. Any name that is identical to, or similar to, the name of an unlawful product or substance is prohibited; and

d. Any name that contains language that suggests using medical cannabidiol for recreational purposes or for a condition other than a qualifying debilitating medical condition is prohibited.

154.30(2) *Medical cannabidiol packaging.*

a. Requirements of medical cannabidiol package containers. The manufacturer shall use medical containers that are:

(1) Of sufficient size to accommodate a separate dispensary label containing the information described in paragraph 154.30(2)*"c"*;

(2) Designed to maximize the shelf life of the contained medical cannabidiol;

(3) Tamper-evident; and

(4) Child-resistant.

b. Medical cannabidiol package prohibitions. The packaging for medical cannabidiol shall not:

(1) Bear a reasonable resemblance to commonly available nonmedical commercial products;

(2) Depict images other than the manufacturer's business name or logo on the packaging;

(3) Reasonably appeal to children. More information is provided in rule 641—154.22(2); or

(4) Reasonably appeal to recreational or adult use.

c. Requirements of medical cannabidiol packaging. A manufacturer shall ensure that all medical cannabidiol packaging includes the following information:

(1) The name of the manufacturer, and trade name if applicable;

(2) A label claim concentration for cannabinoid content including:

1. Tetrahydrocannabinol;

2. Tetrahydrocannabinolic acid. Concentrations of tetrahydrocannabinolic acid may be omitted if the manufacturer uses decarboxylation or other means to substantially remove the acids from the product prior to testing;

3. Cannabidiol; and

4. Cannabidiolic acid. Concentrations of cannabinolic acid may be omitted if the manufacturer uses decarboxylation or other means to substantially remove the acids from the product prior to testing;

(3) The number of servings per package (excluding products intended for inhalation);

(4) The directions for use of the product, including recommended and maximum amount by age and weight, if applicable;

(5) All ingredients of the product shown with common or usual names, including but not limited to any additives, terpenes or artificial flavors, diluents and carriers, and preservatives, listed in descending order by predominance of weight. Any third-party hemp-derived cannabinoids in medical cannabidiol products shall be specifically indicated on the ingredients list, separately from medical cannabidiol produced within the manufacturer's facility;

(6) Instructions for storage, including light and temperature requirements, if any; and

(7) The universal warning symbol provided by the department.

d. The following information shall be included with medical cannabidiol packaging, or contained within a package insert:

(1) A notice with the statement, including capitalization: "This product has not been analyzed or approved by the United States Food and Drug Administration. There is limited information on the side effects of using this product, and there may be associated health risks and medication interactions. This product is not recommended for use by pregnant or breastfeeding women. KEEP THIS PRODUCT OUT OF REACH OF CHILDREN.";

(2) A notice with the statement: "This medical cannabidiol is for therapeutic use only. Use of this product by a person other than the patient listed on the label is unlawful and may result in the cancellation of the patient's medical cannabidiol registration card. Return unused medical cannabidiol to a dispensary for disposal.";

A package may contain multiple labels if the information required by this rule is not obstructed.

154.30(3) *Medical cannabidiol labeling.*

a. After receiving a passing certification of analysis for a package lot from a laboratory, and prior to distribution to dispensaries, a manufacturer shall affix a label to each individual package of medical cannabidiol that contains the following information:

(1) A unique lot number;

(2) The date of manufacture;

(3) Product expiration date. This date shall be one year from the date of manufacture unless a manufacturer has conducted stability studies and received approval from the department for an extended expiration date.

b. Cannabinoid content for:

(1) Tetrahydrocannabinol;

(2) Tetrahydrocannabinolic acid. Concentrations of tetrahydrocannabinolic acid may be omitted if the manufacturer uses chemical decarboxylation or other means to substantially remove the acids from the product prior to testing;

(3) Cannabidiol; and

(4) Cannabidiolic acid.

641—154.31(124E) Transportation of medical cannabidiol and plant material.

154.31(1) *Transport of medical cannabidiol or plant material.* A manufacturer is authorized to transport medical cannabidiol or plant material to and from:

a. Dispensaries;

b. A laboratory for testing;

c. A waste facility for disposal;

d. A manufacturer licensed by the department under Iowa Code chapter 124E;

e. Other sites only with departmental approval.

154.31(2) *Chain-of-custody tracking system.*

a. A manufacturer shall use the secure sales and inventory tracking system, if available, or a department-approved manifest system to track shipping of medical cannabidiol. The system shall include a chain of custody that records:

(1) The name and address of the destination;

(2) The unique ID of each individual process lot or package lot that is part of the shipment, and the total number of individual packages;

(3) The date and time the medical cannabidiol shipment is placed into the transport vehicle;

(4) The date and time the shipment is accepted at the delivery destination;

(5) The person's identity; and

(6) Any handling or storage instructions.

b. Before transporting medical cannabidiol, a manufacturer shall:

(1) Record in the secure sales and inventory tracking system or on the manifest information the material to be transported; and

(2) Notify the dispensary, laboratory, manufacturer, or waste facility, as applicable, of the expected arrival time and transmit a copy of the manifest to the dispensary, laboratory, manufacturer, or waste facility, if applicable.

c. Each transport shall be approved electronically or in writing by:

(1) An authorized manufacturer employee when the transport vehicle is departing the manufacturing facility; and

(2) An authorized employee of the receiving dispensary, laboratory, manufacturer, or waste facility.

d. An authorized employee at the dispensary, laboratory, manufacturer, or waste facility receiving medical cannabidiol shall:

(1) Verify and document the type and quantity of the transported medical cannabidiol against the information in the secure sales and inventory tracking system or written manifest;

(2) Approve the transport electronically or return a signed copy of the manifest to the manufacturing facility; and

(3) Record the medical cannabidiol that is received as inventory in the secure sales and inventory tracking system, if available. If a manifest system is being used, the dispensary, laboratory, manufacturer, or waste facility shall also maintain a signed copy of the manifest and shall maintain records of the inventory received consistent with these rules.

e. A manufacturer shall maintain all manifests for at least five years and make them available upon request of the department.

154.31(3) *Vehicle requirements for transport.*

a. A manufacturer shall ensure that all medical cannabidiol transported on public roadways is:

(1) Packaged in tamper-evident, bulk containers;

(2) Transported so it is not visible or recognizable from outside the vehicle; and

(3) Transported in a vehicle that does not bear any markings to indicate that the vehicle contains medical cannabidiol or bears the name or logo of the manufacturer.

b. When the motor vehicle contains medical cannabidiol, manufacturer employees who are transporting the medical cannabidiol on public roadways shall:

(1) Travel directly to a dispensary or other department-approved locations; and

(2) Document refueling and all other stops in transit, including:

1. The reason for the stop;
2. The duration of the stop; and
3. The location of the stop.

c. If the vehicle must be stopped due to an emergency situation, the employee shall notify 911 and complete an incident report on a form approved by the department.

d. Under no nonemergency circumstance shall any person other than a designated manufacturer employee have actual physical control of the motor vehicle that is transporting the medical cannabidiol.

e. An employee in a transport motor vehicle shall have telephone access with the manufacturer's personnel.

641—154.32(124E) Disposal of medical cannabidiol and plant material.

154.32(1) *Return of medical cannabidiol from dispensaries and laboratory.* A manufacturer may collect at no charge medical cannabidiol waste from dispensaries. A manufacturer that chooses to collect medical cannabidiol waste may use it for research and development or retained samples, but the manufacturer shall not introduce medical cannabidiol returned from a laboratory into lots of products intended for sale. Notwithstanding this provision, a manufacturer shall:

a. Dispose of medical cannabidiol waste; and

b. Maintain a written record of disposal.

154.32(2) *Medical cannabidiol and plant material waste.* A manufacturer shall store, secure, manage, and record medical cannabidiol waste and plant material waste in accordance with all applicable federal, state, and local regulations.

a. The manufacturer shall dispose of medical cannabidiol waste and plant material waste at an approved facility.

b. Before transport of plant material waste, the manufacturer shall render the plant material waste unusable and unrecognizable.

c. A manufacturer shall dispose of all liquid and chemical product waste generated in the process of cultivating, manufacturing, and distributing medical cannabidiol in accordance with applications regulations.

641—154.33(124E) Production requirements.

154.33(1) *Cultivation and processing.*

a. All phases of production shall take place in designated, restricted access areas in accordance with rule 641—154.21(124E).

b. The production process shall be designed to limit contamination.

c. Each production area shall allow for access, observation, and inventory of each plant group.

154.33(2) *Crop inputs and plant batches.*

a. The manufacturer shall use the secure sales and inventory tracking system to maintain an electronic record of all crop inputs. The record shall include the following:

(1) The date of input application;

(2) The name of the employee applying the crop input;

(3) The crop input that was applied;

(4) The plants that received the application; and

(5) A copy of or electronic link to the safety data sheet for the crop input applied.

b. At the time of harvesting, all plants shall be tracked in a batch process with a unique batch number that shall remain with the batch through final processing into medical cannabidiol.

c. Each batch or part of a batch of cannabis plants that contributes to a lot of medical cannabidiol shall be recorded in the secure sales and inventory tracking system or other manifest system.

154.33(3) *Production of medical cannabidiol.*

a. A manufacturer shall obtain approval from the department for use of any hydrocarbon-based extraction process.

b. Medical cannabidiol shall be prepared, handled, and stored in compliance with the sanitation requirements in this rule.

c. A manufacturer shall produce shelf-stable, nonperishable forms of medical cannabidiol.

d. A manufacturer shall ensure that the cannabinoid content of the medical cannabidiol it produces is homogenous.

e. Each lot of medical cannabidiol shall be assigned a unique lot number and recorded in the secure sales and inventory tracking system or other manifest system.

154.33(4) *General sanitation requirements.* A manufacturer shall take all reasonable measures and precautions to ensure that:

a. Any employee who has a communicable disease does not perform any tasks that might contaminate plant material or medical cannabidiol;

b. Hand-washing facilities are:

(1) Convenient and furnished with running water at a suitable temperature;

(2) Located in all production areas; and

(3) Equipped with effective hand-cleaning and -sanitizing preparations and sanitary towel service or electronic drying devices;

c. All employees working in direct contact with plant material and medical cannabidiol use hygienic practices while on duty, including:

(1) Maintaining personal cleanliness; and

(2) Washing hands thoroughly in a hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated;

d. Litter and waste are routinely removed and the operating systems for waste disposal are routinely inspected;

e. Floors, walls, and ceilings are constructed with a surface that can be easily cleaned and maintained in good repair to inhibit microbial growth;

f. Lighting is adequate in all areas where plant material and medical cannabidiol are processed, stored, or sold;

g. Screening or other protection against the entry of pests is provided, including that rubbish is disposed of to minimize the development of odor and the potential for the waste becoming an attractant, harborage, or breeding place for pests;

h. Any buildings, fixtures, and other facilities are maintained in a sanitary condition;

i. Toxic cleaning compounds, sanitizing agents, and other potentially harmful chemicals are identified and stored in a separate location away from plant material and medical cannabidiol and in accordance with applicable local, state, or federal law;

j. All contact surfaces, utensils, and equipment used in the production of plant material and medical cannabidiol are maintained in a clean and sanitary condition;

k. The manufacturing facility water supply is sufficient for necessary operations;

l. Employees have accessible toilet facilities that are sanitary and in good repair; and

m. Plant material and medical cannabidiol that could support the rapid growth of undesirable microorganisms are isolated to prevent the growth of those microorganisms.

154.33(5) *Storage.*

a. A manufacturer shall store plant material and medical cannabidiol during production, transport, and testing, ensuring that:

(1) Plant material and medical cannabidiol are returned to a secure location immediately after completion; and

(2) The tanks, vessels, bins, or bulk containers containing plant material or medical cannabidiol are locked inside a secure area.

b. A manufacturer shall store all plant material and medical cannabidiol during production, transport, and testing, and all saleable medical cannabidiol:

(1) In areas that are maintained in a clean, orderly, and well-ventilated condition; and

(2) In storage areas that are free from infestation by insects, rodents, birds, and other pests of any kind.

c. To prevent degradation, at all times, a manufacturer shall store all plant material and medical cannabidiol under conditions that will protect the product and its container against physical, chemical, and microbial contamination and deterioration.

d. A manufacturer shall maintain a separate secure storage area for medical cannabidiol that is returned from a dispensary.

154.33(6) *Scales.* All scales used to weigh usable plant material for purposes of these rules shall be certified in accordance with ISO/IEC 17025 dated 2017, which is incorporated herein by reference.

641—154.34(124E) Supply and inventory.

154.34(1) *Reliable and ongoing supply.* A manufacturer shall provide a reliable and ongoing supply of medical cannabidiol to medical cannabidiol dispensaries.

154.34(2) *Inventory controls and procedures.* A manufacturer shall establish inventory controls and procedures for conducting inventory reviews to prevent and detect any diversion, theft, or loss in a timely manner.

154.34(3) *Inventory tracking required.* A manufacturer shall use the secure sales and inventory tracking system to track medical cannabidiol production from seed or plant cutting through distribution of medical cannabidiol to a dispensary.

154.34(4) *Reconciliation.* No less often than every two calendar weeks, a manufacturer shall reconcile its physical inventory with the inventory recorded in the secure sales and inventory tracking system.

a. Reconciliation shall include:

(1) Plant material at the manufacturing facility and in transit; and

(2) Medical cannabidiol at the manufacturing facility.

b. Discrepancies between the physical inventory of the manufacturer and the inventory recorded in the secure sales and inventory system shall be handled as follows:

(1) A manufacturer shall report suspected diversion of medical cannabidiol to the department within 72 hours of discovery.

(2) A manufacturer shall have up to 72 hours to reconcile discrepancies in the manufacturer's physical inventory with the inventory recorded in the secure sales and inventory tracking.

641—154.35(124E) Duties of the department.

154.35(1) *Inspection of dispensaries.* The department or its agents shall conduct regular inspections of dispensaries and their facilities.

154.35(2) *Establishment and maintenance of a secure sales and inventory tracking system.* The department shall establish and maintain a secure, electronic system that is available 24 hours per day, seven days per week to track:

a. Inventory of medical cannabidiol and waste material;

b. Sales of medical cannabidiol from dispensaries to patients and primary caregivers;

c. Total tetrahydrocannabinol purchased in the last 90 days by a patient and the patient's primary caregiver.

154.35(3) *Recall of medical cannabidiol products.* If the department determines, based on an evaluation of the health hazard presented, that there is a reasonable probability that use of, or exposure to, a violative medical cannabidiol product will cause a serious adverse health consequence or death, the department may require a dispensary to recall such violative medical cannabidiol products from the dispensary facility and from patients. An evaluation of the health hazard presented by medical cannabidiol being considered for recall shall be conducted by an ad hoc committee of scientists appointed by the director of the department and shall consider, but need not be limited to, each of the following factors:

a. Whether any disease or injuries have already occurred from the product.

b. Whether any existing conditions could contribute to a clinical situation that could expose humans to a health hazard. Any conclusion shall be supported as completely as possible by scientific documentation, statements, or both that the conclusion is the opinion of the individual(s) making the health hazard determination.

c. A holistic assessment of the hazard and its present and future potential consequences.

154.35(4) *Permissible disclosure.* The department may disclose patient-specific dispensing data to the certifying provider upon written request by the patient, caregiver, or certifying provider.

641—154.36(124E) Dispensary operations.

154.36(1) *Operating documents.*

a. A dispensary shall maintain operating documents that accurately reflect the dispensary's standard operating procedures. Unless otherwise noted, a dispensary shall make the operating documents available to the department upon request, through secure means.

b. The operating documents of a dispensary shall include all of the following:

(1) Procedures for the oversight of the dispensary, including descriptions of operational and management practices regarding:

1. The forms and quantities of medical cannabidiol products that will be stored and dispensed at the dispensary;
2. The estimated forms and quantities of medical cannabidiol waste to be generated or collected;
3. The disposal methods for all waste materials;
4. Employee training methods for the dispensary employees;
5. Strategies for identifying and reconciling discrepancies in inventory of medical cannabidiol;
6. Procedures to ensure the dispensary does not dispense more than a patient's certified limit of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period;
7. Medical cannabidiol labeling procedures;
8. Procedures for recall of medical cannabidiol;
9. Plans for responding to a security breach at the dispensary facility;
10. A business continuity plan; and
11. Other information requested by the department.

(2) Procedures to ensure accurate recordkeeping.

(3) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas of the dispensary facility containing medical cannabidiol.

154.36(2) *Prohibited activities.* In addition to following all provisions of Iowa Code section 124E.7, a dispensary shall not:

a. Dispense medical cannabidiol in any location except in those areas approved by the department;

b. Sell, receive, transport, or distribute medical cannabidiol from any location except its dispensary;

c. Sell, receive, or distribute medical cannabidiol from any entity other than a manufacturer licensed by the department;

d. Sell or distribute medical cannabidiol to any person other than an approved patient or primary caregiver;

(1) Transport or deliver medical cannabidiol to any location, unless approved by the department;

(2) Sell medical cannabidiol that is not packaged and labeled in accordance with rules;

(3) Repackage medical cannabidiol or remove the manufacturer's label.

641—154.37(124E) Recordkeeping requirements.

154.37(1) *Dispensary sales.* Within one business day of sale, a dispensary shall record complete and accurate electronic sales transaction records in the secure sales and inventory tracking system, including:

a. The name of the patient and, if purchase is made by the primary caregiver, the name of the primary caregiver;

b. The date and time of each sale;

c. The item number, product name and description, and quantity of medical cannabidiol sold;

d. The sale price;

e. Other information required by the department.

154.37(2) Reserved.

641—154.38(124E) Storage.

154.38(1) *Storage of saleable medical cannabidiol.*

a. A dispensary shall store medical cannabidiol to prevent diversion, theft, or loss, including ensuring that:

(1) Medical cannabidiol is kept in a secure and monitored location within the dispensary; and

(2) Cabinets or storage containers inside the secure and monitored area are locked at the end of a business day.

b. A dispensary shall store all medical cannabidiol:

(1) In areas that are maintained in a clean, orderly, and well-ventilated condition;

(2) In areas that are free from infestation by insects, rodents, birds, and other pests of any kind;

(3) According to the manufacturer's requirements regarding temperature, light exposure, or other environmental conditions;

(4) Under conditions that will protect the product and its container against physical, chemical, and microbial contamination and deterioration.

154.38(2) *Storage of returned medical cannabidiol.* A dispensary shall maintain a separate secure storage area for medical cannabidiol that is to be returned to a manufacturer for disposal, including medical cannabidiol that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging has been opened or breached, until the medical cannabidiol is collected by a manufacturer.

641—154.39(124E) Dispensing.

154.39(1) *Access to all forms of product.* A dispensary shall provide access to all medical cannabidiol forms produced by each licensed manufacturer.

154.39(2) *Dispensing to a patient or primary caregiver.* Prior to dispensing any medical cannabidiol to a patient, a dispensary shall do all of the following:

a. Verify the patient or primary caregiver's identity using acceptable photo identification and that the patient or primary caregiver is over 18 years of age. Acceptable photo identification includes:

(1) A valid Iowa driver's license;

(2) A valid Iowa nonoperator's identification card;
(3) A U.S. passport;
(4) A U.S. military ID or veteran ID; or
(5) A tribal ID card/document;

b. Verify that the patient or primary caregiver, if applicable, is registered and listed in the secure sales and inventory tracking system and has a valid medical registration card;

c. Check the secure sales and inventory tracking system for the patient's total tetrahydrocannabinol 90-day purchase limit and the amount of total tetrahydrocannabinol that the patient and the patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the patient does not exceed the patient's purchase limit;

d. Assign a tracking number to any medical cannabidiol that is to be dispensed to the patient or primary caregiver; or

e. Issue a label that contains the following information, which may be printed on a secondary label or package insert:
(1) The medical cannabidiol tracking number;
(2) The patient registration number;
(3) The date and time the medical cannabidiol is dispensed;
(4) The name and address of the dispensary; and
(5) Any specific instructions for use based upon manufacturer guidelines or department rules. Text shall not include any false, misleading, or unsubstantiated statements regarding health or physical benefits to the patient.

641—154.40(124E) Transportation of medical cannabidiol. A dispensary is not authorized to transport medical cannabidiol, unless approved by the department. Any approved transport shall be logged in the secure sales and inventory tracking system.

641—154.41(124E) Disposal of medical cannabidiol.

154.41(1) *Identification of excess, expired, or damaged medical cannabidiol.* Dispensaries shall identify unused, excess, expired, or damaged medical cannabidiol.

154.41(2) *Return of medical cannabidiol from a patient or primary caregiver to a dispensary.*

a. A dispensary shall accept at no charge medical cannabidiol waste from any patient or primary caregiver. A dispensary may provide all medical cannabidiol waste to the manufacturer for disposal.

b. The dispensary shall enter the following information into the secure sales and inventory tracking system for medical cannabidiol returned from a patient or primary caregiver being returned to the manufacturer:
(1) The tracking number assigned at the time of the dispensing, if available, or the name of the patient, if the tracking number is unavailable;
(2) The date the medical cannabidiol was returned;
(3) The quantity of medical cannabidiol returned; and
(4) The type and lot number of medical cannabidiol returned.

c. A dispensary shall store medical cannabidiol returned from patients and primary caregivers.

154.41(3) *Unused, excess, expired, damaged, or returned medical cannabidiol.* Unused, excess, expired, damaged, or returned medical cannabidiol shall be stored as described in subrule 154.38(2).

154.41(4) *Return of medical cannabidiol to a manufacturer.* A dispensary shall record information on all medical cannabidiol collected by the manufacturer in the secure sales and inventory tracking system. Information shall include:
a. The date the medical cannabidiol was collected by the manufacturer;
b. The quantity of medical cannabidiol collected; and
c. The type and lot number of medical cannabidiol collected.

641—154.42(124E) Inventory.

154.42(1) *Inventory controls and procedures.* A dispensary shall establish inventory controls and procedures for conducting inventory reviews to prevent and detect any diversion, theft, or loss in a timely manner.

154.42(2) *Real-time inventory required.* A dispensary shall use the secure sales and inventory tracking system to maintain a real-time record of the dispensary's inventory of medical cannabidiol to include:

a. The quantity and form of saleable medical cannabidiol maintained at the dispensary on a daily basis;

b. The amount of damaged, expired, or returned medical cannabidiol being held at the dispensary for return to a manufacturer; and

c. Other information deemed necessary and requested by the department.

154.42(3) *Reconciliation.* At least once per calendar week, a dispensary shall reconcile all medical cannabidiol with the inventory recorded in the secure sales and inventory tracking system. Discrepancies shall be handled as follows:

a. A dispensary shall report suspected diversion of medical cannabidiol to the department and law enforcement within 24 hours of discovery.

b. A dispensary shall have up to 24 hours to reconcile the dispensary's physical inventory with the inventory recorded in the secure sales and inventory tracking system. If the dispensary cannot reconcile the dispensary's physical inventory with the secure sales and inventory tracking system's inventory within 24 hours but diversion of product is not suspected, the dispensary shall immediately contact the department to report the discrepancy and to initiate a compliance action.

641—154.43(124E) Quality assurance and control. A dispensary shall cooperate with manufacturers and the department on quality assurance and control procedures, including participating in stability-testing studies, developing sampling strategies, and returning medical cannabidiol that has been recalled.

MEDICAL CANNABIDIOL BOARD

641—154.44(124E) Purpose and duties of board. The purpose of the board is to administer the provisions of Iowa Code section 124E.5.

641—154.45(124E) Organization of board and proceedings.

154.45(1) *Membership.* The board shall be composed of members as set forth in Iowa Code section 124E.5. The appointments, unless provided otherwise by law, shall be for three-year staggered terms that shall expire on June 30. Board members shall be knowledgeable about the use of medical cannabidiol. The medical practitioners appointed to the board shall be licensed in Iowa and be nationally board-certified in their area of specialty.

154.45(2) *Vacancies.* Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

154.45(3) *Absences.* Three consecutive unexcused absences shall be grounds for the governor to consider dismissal of a board member and to appoint another. Department staff is charged with providing notification of absences to the governor's office.

154.45(4) *Board meetings.*

a. Board meetings shall be conducted in accordance with the open meetings requirements of Iowa Code chapter 21.

b. The department's bureau of cannabis regulation shall schedule the time, date and location of meetings.

c. A majority of the members shall constitute a quorum for conducting business of the board.

d. An affirmative vote of a majority of the board members present at a meeting is required for a motion to pass.

154.45(5) *Facilities and staffing.* The department shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter but shall be reimbursed for all costs incurred by fee revenue generated from licensing activities and registration card applications.

154.45(6) *Subcommittees.* The board may designate one or more subcommittees to perform such duties as may be deemed necessary.

641—154.46(124E) Petitions for the addition or removal of medical conditions, medical treatments or debilitating diseases. Pursuant to Iowa Code section 124E.5(3)*"a,"* the board shall accept and review petitions to modify the list of debilitating medical conditions for the medical use of cannabidiol. The petition shall be in accordance with 441—Chapter 4, except that the caption should read "Petition for Addition or Removal."

154.46(1) *Inquiries.* Inquiries concerning the status of a petition may be made to the bureau of cannabis regulation at the department's address.

154.46(2) *Additional information.* The board may request that the petitioner submit additional information concerning the petition. The board may also solicit comments from any person on the substance of the petition. Comments on the substance of the petition may be submitted to the board by any person.

154.46(3) *Presentation to the board.* The board may request or allow the petitioner to make an oral presentation of the contents of a petition at a board meeting following submission of the petition.

154.46(4) *Board response.* The board shall notify the petitioner in writing of the decision within six months after the filing, unless the petitioner agrees to a time extension. If the petition is granted, the board will recommend addition or removal of the medical condition, medical treatment or debilitating disease to the board of medicine. If the petition is denied, the board will provide the rationale for the denial. Notification occurs when the board mails the writing to the petitioner.

154.46(5) *Denials.* Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

LABORATORY TESTING

641—154.47(124E) Requirements of the department.

154.47(1) *Laboratory testing requirements and acceptance criteria.* The department shall work with manufacturers and laboratories to create and maintain a document describing required sampling methodology, acceptance criteria, stability-testing procedures, and other guidance for manufacturers and laboratories on testing procedures. The department shall provide manufacturers and laboratories no less than 14 days in which to comment on proposed revisions to the document, and the department shall provide no less than 30 days' notice before a revision takes effect. The document shall:

a. Describe the minimum number of sample units and reserve samples required for testing by the laboratory;

b. Describe an option for manufacturers to reduce the amount of testing conducted by allowing compositing of sample units or other techniques that reduce the number of tests required without compromising the safety of the products once a manufacturer has satisfactorily completed a control study for a specific extraction or production process;

c. Describe the minimum requirements for sample size and testing intervals for stability testing; and

d. Be available on the department's website (hhs.iowa.gov).

154.47(2) *Review and approval of manufacturer sampling protocols.* The department shall have two weeks to review and approve or request revisions to a manufacturer's sampling protocols.

154.47(3) *Review and approval of manufacturer stability-testing procedures.* The department shall have two weeks to review and approve or request revisions to a manufacturer's stability-testing procedures.

154.47(4) *Establish a laboratory review committee.* The department shall establish a laboratory review committee to assist with the review of applications by laboratories and the establishment of accepted laboratory testing standards and practices.

154.47(5) *Review of laboratory applications.* The department shall establish a process to review applications from prospective medical cannabidiol testing laboratories. Prospective laboratories shall apply on a form created by the department. The department will determine whether the laboratory meets the criteria for an independent medical cannabidiol testing facility as set forth in the definition of "laboratory" in Iowa Code section 124E.2 in addition to determining whether the laboratory meets laboratory requirements pursuant to these rules.

154.47(6) *Regulation of independent laboratories.* The department shall determine on an annual basis whether any approved independent laboratory continues to meet the application criteria of this rule. The department shall establish a process for the annual review of approved independent laboratories. An independent laboratory is subject to reasonable inspection by the department, a department-approved consultant, or another agency pursuant to Iowa Code chapter 124E and these rules and as authorized by laws and regulations.

641—154.48(124E) Requirements of a laboratory.

154.48(1) *Minimum testing requirements.* A laboratory shall establish and implement test methods and corresponding standard operating procedures for the analyses of cannabinoids, residual solvents and processing chemicals, pesticides, microbiological impurities, and metals and other analyses as requested by the department.

154.48(2) *Level of quantitation.* A laboratory shall be able to demonstrate that its level of quantitation (LOQ) is below any action level established by the department.

154.48(3) *Inventory tracking.* A laboratory shall record the following:

a. The receipt of medical cannabidiol from a manufacturer for testing.

b. The return of medical cannabidiol or waste to a manufacturer.

154.48(4) *Hazardous waste disposal.* A laboratory shall do the following when dealing with hazardous waste:

a. Discard hazardous waste, including hazardous waste containing medical cannabis goods, in accordance with federal and state hazardous waste laws.

b. Document the waste disposal procedures followed for each sample.

641—154.49(124E) Requirements of a manufacturer.

154.49(1) *Assuming costs.* A manufacturer shall assume the costs for all laboratory testing pertaining to verification studies on new products, the cost of standard testing protocols as outlined in a Laboratory Acceptance and Criteria Document and other tests as requested by the department. A manufacturer shall provide any necessary reference materials to the laboratory at no cost.

154.49(2) *Obtaining approval for sampling protocols.* A manufacturer shall obtain approval from the department for the manufacturer's sampling protocols prior to submitting samples for laboratory testing related to content and contamination.

154.49(3) *Obtaining approval for stability-testing procedures.* A manufacturer shall obtain approval from the department for the manufacturer's stability-testing procedures prior to submitting samples for laboratory testing related to stability testing and product-expiration-date studies.

641—154.50(124E) Content testing.

154.50(1) *Cannabinoids.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, a laboratory shall, at minimum, test for and report measurements for the following cannabinoid analytes:

(1) THC;
(2) THCA;
(3) CBD; and
(4) CBDA.

b. A laboratory shall report that the primary sample passed or failed THC and CBD potency testing according to guidance in the Laboratory Acceptance and Criteria Document described in subrule 154.47(1).

c. For each cannabinoid analyte test, a laboratory shall issue a certificate of analysis that contains the following:

(1) Concentrations of cannabinoid analytes in mg/ml for liquids and mg/g for solids, or other measures approved by the department.

(2) Whether the primary sample passed or failed the test in accordance with paragraph 154.50(1) *"b."*

d. The laboratory may test for and provide test results for additional cannabinoid analytes if asked to do so by a requester.

154.50(2) *Contaminants testing.*

a. For each unique lot of medical cannabidiol, unless otherwise referenced in the laboratory testing requirements and acceptance criteria document described in subrule 154.47(1), a laboratory shall conduct contaminants testing for the following analytes:

(1) Residual solvents and processing chemicals.

(2) Pesticides.

(3) Microbiological impurities.

(4) Heavy metals.

b. The laboratory may test and provide test results for additional contaminants if asked to do so by a requestor.

c. The department shall provide a list of contaminants for which primary samples are to be tested with corresponding action levels on the department's website (hhs.iowa.gov).

d. For each contaminant for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the concentration of contaminant is at or below the action level approved by the department.

e. For each contaminant for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of contaminants is above the action level approved by the department.

f. If a laboratory is using gas chromatography-mass spectrometry instrumentation to analyze primary samples for contaminants and the laboratory determines that a primary sample contains contaminants or chemical analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the contaminant analytes.

g. The laboratory may test for and provide test results for additional contaminants or processing chemicals if asked to do so by a requester.

h. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each contaminant for which the primary sample was tested.

1. The concentrations shall be listed in parts per million (ppm) or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any contaminant that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.50(2) *"c"* and *"d."*

(3) The names and amounts of any additional contaminants identified by the laboratory.

i. If the primary sample fails testing for residual solvents and processing chemicals, the lot fails laboratory testing.

j. When a laboratory identifies additional contaminants in a primary sample, the laboratory shall:

(1) Notify the department of the additional contaminants and the amounts detected, if applicable.

(2) Refrain from issuing a final certificate of analysis until given approval to do so by the department.

641—154.51(124E) Reporting requirements.

154.51(1) *Reporting test results.* The laboratory shall generate a certificate of analysis for each primary sample that it tests and make the certificate of analysis available to the manufacturer and the department.

154.51(2) *Tentatively identified analytes.* A laboratory shall report on the certificate of analysis any tentatively identified analytes detected during the analysis of the primary sample. When a laboratory identifies additional analytes in a primary sample, the laboratory shall:

a. Notify the department of the additional analytes detected.

b. Refrain from issuing a final certificate of analysis until given approval to do so by the department.

154.51(3) *Additional reporting requirements.* In addition to the requirements described in rule 641—154.50(124E), the certificate of analysis shall contain, at a minimum, the following information:

a. All requirements of ISO/IEC 17025 dated 2017;

b. Date of primary sample collection;

c. Date the primary sample was received by the laboratory;

d. Date of each analysis;

e. The LOQ and action level for each analyte, as applicable;

f. Whether the primary sample and lot passed or failed laboratory testing; and

g. A signature by the laboratory quality officer or delegate and the date the certificate of analysis was validated as being accurate by the laboratory quality officer or delegate.

154.51(4) *Measurements.*

a. Any test result that is not covered under the laboratory's ISO/IEC 17025 scope of accreditation shall be clearly identified on the certificate of analysis.

b. Measurements below a method's limit of detection shall be reported as "<" (less than) or "not detected" and reference the reportable limit. The reporting of zero concentration is not permitted.

c. Measurements greater than or equal to LOD but less than LOQ shall be reported as "detected but not quantified."

d. The number of significant figures reported shall reflect the precision of the analysis.

641—154.52(124E) Recordkeeping requirements.

154.52(1) *Data package.* A laboratory shall create a data package for each analytical batch of primary samples that the laboratory analyzes. The data package shall contain at minimum the following information:

a. The name and address of the laboratory that performed the analytical procedures;

b. The names, functions, and signatures (electronic or handwritten) of the laboratory personnel who performed the primary sample preparation, analyzed the primary samples, and reviewed and approved the data;

c. All primary sample and analytical batch quality control sample results;

d. Raw data for each primary sample analyzed;

e. Instrument raw data, if any was produced;

f. Instrument test method with parameters;

g. Instrument tune report, if one was created;

h. All instrument standard calibration data;

i. Test-method worksheets or forms used for primary sample identification, characterization, and calculations, including chromatograms, sample-preparation worksheets, and final datasheets;

j. The quality control report with worksheets, forms, or copies of laboratory notebook pages containing pertinent information related to the identification and traceability of all reagents, reference materials, and standards used for analysis;

k. The analytical batch sample sequence;

l. The field sample log; and

m. The chain-of-custody form.

154.52(2) *Review of data package.* After the laboratory has compiled a data package, an individual at the laboratory who was not previously involved in the creation of the data package shall:

a. Assess the analytical results for technical correctness and completeness;

b. Verify that the results of each analysis carried out by the laboratory are reported accurately, clearly, unambiguously, and objectively;

c. Verify that the measurements can be traced back; and

d. Approve the measurement results by signing and dating the data package prior to release of the certificate of analysis by the laboratory.

154.52(3) *Data package record retention.* The entire data package shall be stored by a laboratory for a minimum of five years and shall be made available upon request by the department or the requester of the laboratory testing.

154.52(4) *Other records.* A laboratory shall maintain all documents, forms, records, and standard operating procedures associated with the testing of medical cannabidiol.

a. A laboratory shall maintain analytical testing laboratory records in such a manner that the analyst, the date the analysis was performed, the approver of the certificate of analysis, the reviewer and approver of the data package, the test method, and the materials that were used can be determined by the department.

b. Records shall be stored in such a way that the data may be readily retrieved when requested by the department.

c. All testing laboratory records shall be kept for a minimum of five years, unless otherwise noted in these rules.

d. The department shall be allowed access to all electronic data, including standards records, calibration records, extraction logs, and laboratory notebooks.

e. A laboratory shall keep and make available to the department the following records related to the testing of medical cannabidiol:

(1) Personnel qualification, training, and competency documentation, including but not limited to résumés, training records, continuing education records, analytical proficiency testing records, and demonstration of competency records for laboratory work. These records shall be kept current.

(2) Method verification and validation records, including method modification records, method detection limit and quantitation limit determination records, ongoing verification records such as proficiency test records and reference material analysis records.

(3) Quality control and quality assurance records, including the laboratory's quality assurance manual and control charts with control limits.

(4) Chain-of-custody records, including chain-of-custody forms, field sample logs, sample-receipt records, sample-description records, sample-rejection records, laboratory information management system records, sample-storage records, sample-retention records, and disposal records.

(5) Purchasing and supply records, equipment-services records, and other equipment records, including purchase requisition records, packing slips, supplier records, and certificates of analysis.

(6) Laboratory equipment installation records, maintenance records, and calibration records. These records shall include the date and name of the person performing the installation of, calibration of, or maintenance on the equipment, with a description of the work performed, maintenance logs, pipette calibration records, balance calibration records, working and reference mass calibration records, and daily verification-of-calibration records.

(7) Customer service records, including customer contracts, customer requests, certificates of analysis, customer transactions, customer feedback, records related to the handling of complaints and nonconformities, and corrective action pertaining to complaints.

(8) Nonconforming work and corrective action records, including corrective action, nonconformance, nonconformities resolved by correction, customer notification of nonconformities, internal investigations, implementation of corrective action, and resumption-of-work records.

(9) Internal-audit and external-audit records, including audit checklists, standard operating procedures, and audit observation and findings reports. These records shall include the date and name of the person performing the audit.

(10) Management review records, including technical data review reports and final management-review reports. These records shall include the review date and the name of the reviewer.

(11) Laboratory data reports, data review, and data approval records, including instrument and equipment identification records, records with unique sample identifiers, analysts' laboratory notebooks and logbooks, traceability records, test-method worksheets and forms, instrumentation-calibration data, and test-method raw data. These records shall include the analysis date and the name of the analyst.

(12) Proficiency testing records, including the proficiency test schedule, proficiency tests, data-review records, data-reporting records, nonconforming work and corrective actions, and quality control and quality assurance records related to proficiency testing.

(13) Electronic data, backed up data, records regarding the protection of data, including unprocessed instrument output data files and processed quantitation output files, electronic data protocols and records, and authorized personnel records.

(14) Security data, including laboratory-security records and laboratory-access records, surveillance-equipment records, and security-equipment records. These records shall be stored for at least one year.

(15) Traceability, raw data, standards records, calibration records, extraction logs, reference materials records, analysts' laboratory notebooks and logbooks, supplier records, and certificates of analysis, and all other data-related records.

(16) Laboratory contamination and cleaning records, including autoclave records, acid-wash logs and records, and general laboratory-safety and chemical-hygiene protocols.

641—154.53(124E) Quality control. The laboratory shall have quality control protocols that include the following elements:

154.53(1) *Quality control samples required.*

a. The laboratory shall run quality control samples with every analytical batch of samples for chemical and microbiological analysis.

b. For microbiological analysis, the laboratory shall develop procedures for quality control requirements for each analytical batch of samples.

c. The laboratory shall analyze the quality control samples in exactly the same manner as the test samples to validate the laboratory testing results.

154.53(2) *Types of quality control samples.* At a minimum, a laboratory shall have the following quality control samples as part of every analytical batch tested for chemical analytes:

a. Negative control (method blank). A laboratory shall prepare and run at least one method blank sample with an analytical batch of samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch, to demonstrate that the analytical process did not introduce contamination.

b. Positive control (laboratory control sample). A laboratory shall prepare and run at least one laboratory control sample with an analytical batch of samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch.

c. Matrix spike sample. A laboratory shall prepare and run one or more matrix spike samples for each analytical batch.

(1) A laboratory shall calculate the percent recovery for quantitative chemical analysis by dividing the sample result by the expected result and multiplying that by 100. All quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance criteria shall be used. When necessary, the department may establish acceptance criteria on the department's website (hhs.iowa.gov).

(2) If quality control acceptance criteria are not acceptable, a laboratory shall investigate the cause, correct the problem, and rerun the analytical batch of samples. If the problem persists, the laboratory shall reprepare the samples and run the analysis again, if possible.

d. Field duplicate sample. A laboratory shall prepare and run a duplicate sample as described in the laboratory testing requirements and acceptance criteria document in subrule 154.47(1). The acceptance criterion between the primary sample and the duplicate sample is less than or equal to 20 percent relative percent difference.

154.53(3) *Certified reference material for chemical analysis.* The laboratory shall use a reference material for each analytical batch in accordance with the following standards:

a. The reference material should be certified and obtained from an outside source, if possible. If a reference material is not available from an outside source, the laboratory shall make its own in-house reference material.

b. Reference material made in-house should be made from a different source of standards than the source from which the calibration standards are made.

c. The test result for the reference material shall fall within the quality control acceptance criteria. If it does not, the laboratory shall document and correct the problem and run the analytical batch again.

154.53(4) *Calibration standards.* The laboratory shall prepare calibration standards by serially diluting a standard solution to produce working standards used for calibration of an instrument and quantitation of analyses in samples.

154.53(5) *Quality control-sample report.* A laboratory shall generate a quality control-sample report that includes quality control parameters and measurements, analysis date, and type of matrix.

154.53(6) *Limit-of-detection and limit-of-quantitation calculations.* For chemical method analysis, a laboratory shall calculate the limit of detection and limit of quantitation using generally accepted methodology.

641—154.54(124E) Security requirements.

154.54(1) *Security policy requirement.* A laboratory shall maintain a security policy to prevent the loss, theft, or diversion of medical cannabidiol samples. The security policy shall apply to all staff and visitors at a laboratory facility.

154.54(2) *Restricted access.* A laboratory shall limit entrance to all restricted areas by completing all of the following:

a. The controlled access system shall do all of the following:

(1) Limit access to authorized individuals;

(2) Maintain a log of individuals with approved access, including dates of approvals and revocations;

(3) Track when personnel enter and exit the laboratory;

(4) Track times of personnel movement between restricted access areas;

(5) Store data for retrieval for a minimum of one year; and

(6) Remain operable in the event of a power failure.

b. A laboratory shall promptly, but no later than five business days after receipt of request, submit stored controlled access system data to the department.

154.54(3) *Personnel identification system.* A laboratory shall use a personnel identification system that controls and monitors individual employee access to restricted access areas within the laboratory facility.

a. An employee identification card shall contain:

(1) The name of the employee;

(2) The date of issuance and expiration;

(3) An alphanumeric identification number that is unique to the employee; and

(4) A photographic image of the employee.

b. A laboratory employee shall keep the identification card visible at all times when the employee is in the laboratory.

c. Upon termination or resignation of an employee, a laboratory shall immediately:

(1) Revoke the employee's access to the laboratory; and

(2) Obtain and destroy the employee's identification card, if possible.

154.54(4) *Video monitoring and surveillance.* A laboratory shall operate and maintain in good working order a video surveillance system for its premises that operates 24 hours per day, seven days a week, and visually records all areas where medical cannabis goods are stored or tested.

a. Camera specifications. Cameras shall:

(1) Capture clear and certain identification of any person entering or exiting a restricted access area containing medical cannabis goods;

(2) Produce a clear, color still photograph live or from a recording;

(3) Have an embedded date-and-time stamp that is synchronized to the recording and does not obscure the picture; and

(4) Continue to operate during a power outage.

b. Video recording specifications. Video recording equipment shall:

(1) Export still images in an industry standard image format, such as .jpg, .bmp, or .gif.

(2) Archive in a format that ensures authentication and guarantees that the recorded image has not been altered.

(3) Save exported video in an industry standard file format that can be played on a standard computer operating system.

(4) All recordings shall be erased or destroyed at the end of the retention period and prior to disposal of any storage medium.

c. Additional requirements. A laboratory shall maintain all security system equipment and recordings in a secure location to prevent theft, loss, destruction, corruption, and alterations.

d. Retention. A laboratory shall ensure that 24-hour recordings from all video cameras are:

(1) Available for viewing by the department upon request;

(2) Retained for a minimum of 60 days;

(3) Maintained free of alteration or corruption; and

(4) Retained longer, as needed, if a laboratory is given actual notice of a pending criminal, civil, or administrative investigation, or other legal proceeding for which the recording may contain relevant information.

154.54(5) *Chain-of-custody policy and procedures.* A laboratory shall maintain a current chain-of-custody policy and procedures. The policy should ensure that:

a. Chain of custody is maintained for samples that may have probable forensic evidentiary value; and

b. Annual training is available for individuals who will be involved with testing medical cannabis goods.

154.54(6) *Information technology systems security.* A laboratory shall maintain information technology systems protection by employing comprehensive security controls that include security firewall protection, antivirus protection, network and desktop password protection, and security patch management procedures.

These rules are intended to implement Iowa Code chapter 124E.

[Filed 6/19/24, effective 8/14/24]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8125C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to criteria for awards or grants

The Department of Health and Human Services (HHS) hereby rescinds Chapter 176, "Criteria for Awards or Grants," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 135 and Executive Order 10.

Purpose and Summary

This chapter describes legacy Department of Public Health procedures for the competitive awarding of funds to entities throughout the state in support of public health programs. However, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. HHS competitive procurement procedures have been merged across the legacy departments and are recorded in the HHS's internal policy, with the exception of rule 641—176.7(135,17A) related to HHS's use of Iowa grants. Rule 641—176.7(135,17A) will be moved to the appropriate chapter in HHS rules under agency number [441].

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on March 20, 2024, as **ARC 7725C**. A public hearing was held on the following date(s):

- April 10, 2024
- April 15, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 176**.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8126C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to advisory bodies of the department

The Department of Health and Human Services (HHS) hereby rescinds Chapter 191, "Advisory Bodies of the Department," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.11 and Executive Order 10.

Purpose and Summary

This chapter describes procedures for those public health advisory bodies established by the legacy Department of Public Health not governed by other administrative rule or statute. However, this chapter is outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on March 20, 2024, as **ARC 7726C**. A public hearing was held on the following date(s):

- April 10, 2024
- April 15, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 191**.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]
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ARC 8127C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to nonpayment of state debt

The Department of Health and Human Services (HHS) hereby rescinds Chapter 194, "Nonpayment of State Debt," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272D.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272D.

Purpose and Summary

This chapter sets forth HHS procedure in denying the issuance, renewal, suspension or revocation of a professional license for nonpayment of state debt. This process commences upon receipt of a certificate of noncompliance from the centralized collection unit of the Department of Revenue.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7361C**. A public hearing was held on the following date(s):

- February 14, 2024
- February 26, 2024

No one attended the public hearings. Two public comments were received regarding displeasure in the revocation of licenses until state debt is recuperated. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 194 and adopt the following **new** chapter in lieu thereof:

CHAPTER 194
NONPAYMENT OF STATE DEBT

641—194.1(272D) Definitions. For the purpose of this chapter, the following definitions shall apply.

"Applicant" means an individual who is seeking the issuance of a license.

"Centralized collection unit" means the centralized collection unit of the Iowa department of revenue.

"Certificate of noncompliance" means the same as defined in Iowa Code section 272D.1.

"Denial notice" means a licensing authority notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 272D.

"License" means the same as defined in Iowa Code section 272D.1.

"Licensing authority" means a board, commission, or any other entity of the department that has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

"Revocation or suspension notice" means a licensing authority notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 272D.

"Withdrawal certificate" means the same as defined in Iowa Code section 272D.1.

641—194.2(272D) Denial of issuance or renewal of a license or suspension or revocation of a license. The licensing authority shall deny the issuance or renewal of a license or suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit per the procedure set forth in Iowa Code chapter 272D. This rule shall apply in addition to the procedures set forth in Iowa Code chapter 272D.

194.2(1) *Service of denial, suspension or revocation notice.* Notice will be served upon the applicant or licensee by certified mail, return receipt requested; by personal service; or through authorized counsel.

194.2(2) *Licensees and applicants responsible to inform licensing authority.* Licensees and applicants shall keep the licensing authority informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D. Licensees and applicants shall

also provide the licensing authority copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code chapter 272D, all court orders entered in such actions, and any withdrawals of certificates issued by the centralized collection unit.

194.2(3) *Reinstatement following license denial, suspension or revocation.* All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the licensing authority has denied the issuance or renewal of a license or suspended or revoked a license pursuant to Iowa Code chapter 272D.

194.2(4) *Effect of filing in district court.* In the event an applicant or a licensee files a timely district court action following service of a denial notice by a licensing authority or service of a revocation or suspension notice, the licensing authority will continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or of the suspension or revocation of a license, the licensing authority will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

194.2(5) *Final notification.* The licensing authority will notify the applicant or licensee in writing through regular first-class mail, or by such other means as the licensing authority determines appropriate in the circumstances, and will similarly notify the applicant or licensee if the license is issued or renewed following the licensing authority's receipt of a withdrawal certificate.

641—194.3(272D) Sharing of information. The department may share applicant or licensee information with the centralized collection unit pursuant to Iowa Code chapter 272D.

These rules are intended to implement Iowa Code chapter 272D.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8128C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to military services, veteran reciprocity, and spouses

The Department of Health and Human Services (HHS) hereby rescinds Chapter 196, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members," and adopts a new Chapter 196, "Emergency Medical Services—Military Services, Veteran Reciprocity, and Spouses of Active Duty Service Members," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147D.1.

Purpose and Summary

This rulemaking sets forth HHS procedures to expedite the application for a professional license for those persons married to an active duty member of the military forces of the United States, or for those persons who are veterans, and to provide reciprocity in licensure for such persons who are currently

licensed in another state. The chapter also provides for the application of military education, training, and service as credit toward any experience or educational requirement of licensure.

This chapter applies only to HHS's emergency medical services licensure program; this is the only licensing program covered by the requirements of Iowa Code chapter 272C to remain under the auspices of HHS upon implementation of the government realignment.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7337C**. A public hearing was held on the following date(s):

- February 14, 2024
- February 26, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Council on Health and Human Services on June 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 196 and adopt the following **new** chapter in lieu thereof:

CHAPTER 196
EMERGENCY MEDICAL SERVICES—MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS

641—196.1(272C) Definitions.

"License" means the same as defined in Iowa Code section 272D.1.

"Licensing authority" means the same as defined in Iowa Code section 272D.1.

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in

10 U.S.C. Section 101(c) (2021); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101 (2006).

"Military service applicant" means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

"Spouse" means a spouse of an active duty member of the military forces of the United States.

"Veteran" means the same as defined in Iowa Code section 35.1.

641—196.2(272C,147D) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the licensing authority. No fee is required with submission of an application for military service credit.

196.2(1) The licensing authority shall grant credit requested in the application pursuant to the emergency medical services (EMS) personnel licensure interstate compact described in Iowa Code section 147D.1.

196.2(2) The licensing authority shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

196.2(3) A military service applicant who is aggrieved by the licensing authority's decision may appeal pursuant to the provisions of 441—Chapter 7, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

196.2(4) The licensing authority shall grant or deny the credit requested in the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the licensing authority grants the credit requested in the military service application. If the licensing authority does not grant the credit requested in the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

641—196.3(272C,147D) Veteran and active duty military spouse privilege to practice. A veteran or spouse with an unrestricted license in another EMS personnel licensure jurisdiction may practice in Iowa pursuant to the EMS personnel licensure interstate compact described in Iowa Code section 147D.1.

These rules are intended to implement Iowa Code sections 272C.4 and 147D.1.

[Filed 6/19/24, effective 8/14/24]
[Published 7/10/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

ARC 8102C

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Rulemaking related to brokerage agreements, buyer's representative agreements, and compensation

The Real Estate Commission hereby amends Chapter 7, "Offices and Management," Chapter 11, "Brokerage Agreements and Listings," and Chapter 12, "Disclosure of Relationships," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 543B.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

Purpose and Summary

This rulemaking updates practice standards, including brokerage agreements, buyer's representation agreements, and compensation, that are enacted by 2024 Iowa Acts, Senate File 2291. These amendments will protect the public while also providing direction to licensees relating to national real estate compensation shifts.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 1, 2024, as **ARC 7931C**. A public hearing was held on the following date(s):

- May 21, 2024

Six members of the public attended the public hearing, including five stakeholders from the Iowa Association of Realtors. Those who provided an oral comment were in support of the proposed changes.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on June 6, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on August 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend subrule 7.15(1) as follows:

7.15(1) A ~~customer's agent~~ client's broker seeking compensation from ~~the listing~~ another broker ~~cannot prepare an offer to purchase on the property without first obtaining~~ will obtain authorization and agreement from the ~~listing~~ cooperating broker prior to closing of the real estate transaction.

ITEM 2. Rescind subrule **7.15(2)**.

ITEM 3. Renumber subrules **7.15(3)** to **7.15(5)** as **7.15(2)** to **7.15(4)**.

ITEM 4. Rescind subrules **11.1(5)** and **11.1(6)**.

ITEM 5. Amend paragraph **11.3(1)"a"** as follows:

a. All ~~listing contracts and all~~ brokerage ~~agency contracts~~ agreements contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages ~~whether the brokerage is acting as subagent~~ or the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to share the compensation with other brokerages and any other method for negotiating compensation for another party's broker. Such disclosure serves to inform the client of any policy that would limit the participation of any other brokerage; and

ITEM 6. Amend paragraph **11.3(6)"c"** as follows:

c. A broker may be compensated by more than one party for services in a transaction ~~if the parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, lease, or exchange~~.

ITEM 7. Adopt the following **new** paragraph **11.3(6)"k"**:

k. The seller or landlord may authorize a portion of the proceeds of the sale of real property or other negotiated term of an agreement or contract to pay compensation to other brokers who are part of the same real estate transaction as the seller or landlord, including a buyer's or tenant's broker solely representing the buyer or tenant. The payment of compensation may be a direct payment from the seller or landlord to the other brokers who are part of the same real estate transaction as the seller or landlord, including a buyer's or tenant's broker solely representing the buyer or tenant.

ITEM 8. Rescind subrule 11.3(9) and adopt the following **new** subrule in lieu thereof:

11.3(9) The seller or landlord may, in the brokerage agreement, authorize the seller's or landlord's broker to disburse part of the broker's compensation to other brokers, including a buyer's or tenant's broker solely representing the buyer or tenant.

ITEM 9. Adopt the following **new** subrule 11.3(10):

11.3(10) Nothing contained in this rule shall obligate any buyer or tenant or seller or landlord to pay compensation to a licensee representing the buyer or tenant or seller or landlord in a real estate transaction unless the buyer or tenant or seller or landlord has entered into a written brokerage agreement with the broker specifying the compensation terms and conditions, in accordance with Iowa real estate license law and commission rules.

ITEM 10. Amend subrule 11.6(2) as follows:

11.6(2) In a ~~listing contract~~ brokerage agreement, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller~~,or~~ landlord, buyer, or tenant that is a principal party to the ~~listing contract~~ brokerage agreement. This will be deemed a reduction in the amount of the earned commission.

ITEM 11. Rescind subrules **12.2(5)** and **12.2(6)**.

ITEM 12. Renumber subrules **12.2(7)** to **12.2(19)** as **12.2(5)** to **12.2(17)**.

ITEM 13. Amend renumbered subrule 12.2(12) as follows:

12.2(12) The licensee retains a copy of the disclosure form signed by the prospective buyer, seller, landlord or tenant, or the documentation and copies as obligated in subrule ~~12.2(12)~~ 12.2(10) as follows:

a. and *b.* No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/24.

TRANSITION OF DOCUMENT PROCESSING SOFTWARE FOR RULE PUBLICATIONS

The Administrative Code Editor provides this informational notice that beginning with the July 10, 2024, issue of the Iowa Administrative Bulletin and the Iowa Administrative Code Supplement, the Legislative Services Agency is transitioning to new document processing software for these publications. Nonsubstantive changes to the style and format of these publications, as well as the Iowa Administrative Code, can be expected as a result of this transition. While the software has been tested extensively, errors resulting from this transition may still occur. To report any errors that may result from this transition, please contact the Publications Editing Office at AdminCode@legis.iowa.gov or 515.281.3355.