



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLII
October 9, 2019

NUMBER 8
Pages 787 to 918

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

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

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

Schedule for Rule Making 2019

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Friday, October 18, 2019	November 6, 2019
11	Wednesday, October 30, 2019	November 20, 2019
12	Wednesday, November 13, 2019	December 4, 2019

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****

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Storage of bulk dry animal nutrients, 49.1, 49.7 IAB 10/9/19 ARC 4698C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 30, 2019 11 a.m. to 12 noon
Animal welfare, ch 67 IAB 10/9/19 ARC 4696C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 30, 2019 9 to 10 a.m.
Meat and poultry inspection—cooperative interstate shipment (CIS) program, 76.2, 76.6 IAB 10/9/19 ARC 4697C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 30, 2019 10 to 11 a.m.

EDUCATION DEPARTMENT[281]

Education program standards—contracted courses used to meet school or school district requirements, 12.5 IAB 10/9/19 ARC 4682C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 29, 2019 9 to 10 a.m.
Senior year plus program, amendments to ch 22 IAB 10/9/19 ARC 4683C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 29, 2019 10 to 11 a.m.
Career academy incentive fund, 46.13 IAB 10/9/19 ARC 4684C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 29, 2019 11 a.m. to 12 noon
Statewide sales and services tax for school infrastructure, amendments to ch 96 IAB 10/9/19 ARC 4685C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 29, 2019 1 to 2 p.m.
Supplementary weighting, 97.1, 97.2(5), 97.5, 97.8 IAB 10/9/19 ARC 4686C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 29, 2019 2 to 3 p.m.
Financial management of categorical funding—secure an advanced vision for education fund, school nutrition fund, 98.21, 98.69, 98.74(3)“b” IAB 10/9/19 ARC 4687C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 29, 2019 3 to 4 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Animal feeding operations—definition of “common ownership,” 65.1 IAB 10/9/19 ARC 4689C	Conference Room 4 East Wallace State Office Bldg. Des Moines, Iowa	October 29, 2019 1 to 2 p.m.
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Two Ruan Center
601 Locust St.
Des Moines, Iowa

October 21, 2019
10 to 11 a.m.

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Authority Offices, Suite 200
1963 Bell Ave.
Des Moines, Iowa

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10 to 11 a.m.

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IAB 9/25/19 **ARC 4663C**

Board Office, Suite C
400 S.W. 8th St.
Des Moines, Iowa

October 15, 2019
9 to 10 a.m.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Expedited licensure for spouses of active duty military service members; prohibition of licensing sanctions for student loan debt repayment delinquency or default, amendments to chs 4, 8, 14
IAB 10/9/19 **ARC 4680C**

Bureau Offices, Suite 350
200 East Grand Ave.
Des Moines, Iowa

October 29, 2019
9 to 9:30 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

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IAB 9/25/19 **ARC 4664C**

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

October 15, 2019
8 to 8:30 a.m.

Physician assistants—child abuse and dependent adult abuse mandatory reporter training, 326.9(4)
IAB 9/25/19 **ARC 4662C**

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

October 15, 2019
8:30 to 9 a.m.

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IAB 9/25/19 **ARC 4668C**

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

October 15, 2019
10 to 11 a.m.

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IAB 10/9/19 **ARC 4690C**

Fifth Floor Board Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

October 29, 2019
10 to 10:30 a.m.

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524.7(1)“c,” 640.1(3), 640.3,
640.4, 640.5(1), 640.6
IAB 10/9/19 **ARC 4681C**

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Blvd.
Ankeny, Iowa

October 31, 2019
10 a.m.
(If requested)

The following list will be updated as changes occur.

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

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

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

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ARC 4698C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

**Proposing rule making related to storage of bulk dry animal nutrients
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 49, “Bulk Dry Animal Nutrients,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 200A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 200A.

Purpose and Summary

The purpose of this proposed rule making is to update the distance requirements for the storage of bulk dry animal nutrients.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 30, 2019. Comments should be directed to:

Maison Bleam
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: maison.bleam@iowaagriculture.gov

Public Hearing

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

October 30, 2019
11 a.m. to 12 noon

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of "Business," "Church," "Grassed waterway," "Major water source," "Public use area," "School" and "Water of the state" in rule **21—49.1(200A)**:

"*Business*" means a commercial enterprise.

"*Church*" means a religious institution.

"*Grassed waterway*" means a shaped or graded channel that is established with suitable vegetation for the stable conveyance of runoff.

"*Major water source*" means a water source that is a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding.

"*Public use area*" means that portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges and cabins, shelter houses, playground equipment, swimming beaches at lakes, and fishing docks, fishing houses, fishing jetties or fishing piers at lakes. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

"*School*" means an educational institution.

"*Water of the state*" means all of the waters under the jurisdiction of the state.

ITEM 2. Amend rule 21—49.7(200A) as follows:

21—49.7(200A) Storage of bulk dry animal nutrients. ~~A distributor shall not store bulk dry animal nutrients in a manner which pollutes the waters of the state. Storage requirements include the following storing bulk dry animal nutrients shall meet the following storage requirements:~~

1. ~~Bulk dry animal nutrients shall not be stored in a manner which pollutes the waters of the state.~~

~~1.~~ 2. Bulk dry animal nutrients shall not be stored in a grassed waterway.

~~2.~~ 3. Bulk dry animal nutrients shall not be stored on ground with a slope of greater than class "B" as defined in the county soil survey.

~~3.~~ 4. Bulk dry animal nutrients shall not be stored within 200 feet of a shallow private water supply well ~~or within~~.

5. Bulk dry animal nutrients shall not be stored within 100 feet of a deep water supply well.

6. Bulk dry animal nutrients shall not be stored within 500 feet of a surface intake, wellhead or cistern of agricultural drainage wells, known sinkholes or major water sources ~~or within 200~~.

7. Bulk dry animal nutrients shall not be stored within 500 feet of watercourses other than major water sources (excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided). ~~For purposes of this rule, terms used are considered to have the same meaning as defined in 567—65.1(455B).~~

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

8. Bulk dry animal nutrients shall not be stored within 500 feet of a residence, business, church, school, or public use area.

ARC 4696C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action****Proposing rule making related to animal welfare
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to rescind Chapter 67, “Animal Welfare,” Iowa Administrative Code, and adopt in lieu thereof a new Chapter 67 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 162.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 162.

Purpose and Summary

The purpose of this proposed rule making is to accomplish the following:

- Ensure that all dogs and cats handled by commercial establishments are provided with humane care and treatment.
- Regulate the transportation, sale, purchase, housing, care, handling, and treatment of dogs and cats by persons engaged in transporting, buying, or selling them.
- Provide that all vertebrate animals consigned to pet shops are provided humane care and treatment, by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by pet shops.
- Authorize the sale, trade, or adoption of only those animals which appear to be free of infectious or communicable disease.
- Protect the public from zoonotic disease.
- Establish subclassifications of licenses and further clarify requirements.

This rule making does not apply to livestock as defined in Iowa Code section 717.1 or any other agricultural animal used in agricultural production as provided in Iowa Code chapter 717A.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 30, 2019. Comments should be directed to:

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Maison Bleam
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: maison.bleam@iowaagriculture.gov

Public Hearing

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

October 30, 2019
9 to 10 a.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

Rescind 21—Chapter 67 and adopt the following **new** chapter in lieu thereof:

CHAPTER 67
ANIMAL WELFARE

21—67.1(162) Definitions.

“Acclimated” means the animal is accustomed to a climate or environment and has the ability to maintain its body temperature.

“Adequate feed” means the provision at suitable intervals of not more than 24 hours or longer if the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.

“Adequate water” means reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.

“Ample space” means the animals contained within the primary enclosure all must have the ability to comfortably turn about, stand erect, sit or lie with limbs fully extended.

“Animal shelter” means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

“Animal warden” means any person employed, contracted, or appointed by the state, municipal corporation, or any political subdivision of the state, for the purpose of aiding in the enforcement of the provisions of Iowa Code chapter 162 or any other law or ordinance relating to the licensing of animals,

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control of animals or seizure and impoundment of animals and includes any peace officer, animal control officer, or other employee whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

"Animal Welfare Act" means the federal Animal Welfare Act, 7 U.S.C. Ch. 54, and regulations promulgated by the United States Department of Agriculture and published in 9 C.F.R. Ch. 1.

"Authorization" means a state license, certificate of registration, or permit issued or renewed by the department to a commercial establishment as provided in Iowa Code section 162.2A.

"Boarding kennel" means a place or establishment other than a pound or animal shelter where dogs or cats not owned by the proprietor are sheltered, fed, and watered in return for a consideration.

"Breeding male or female" means any adult dog or cat over 12 months of age.

"Cleaning" means the mechanical removal of organic matter and waste through the application of soap, detergent or other cleaning agent followed by the rinsing of all surfaces with clean water.

"Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or fewer breeding males or females is not a commercial breeder. However, a person who breeds any number of breeding male or female greyhounds for the purposes of using them for pari-mutuel wagering at a racetrack as provided in Iowa Code chapter 99D shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

"Commercial establishment" or *"establishment"* means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

"Commercial kennel" means a kennel which performs grooming, boarding, or training services for dogs or cats in return for a consideration.

"Commingle" means to combine animals from different owners in a common area or enclosure.

"Common area" means any area where dogs are commingled for exercise or social interaction.

"Dealer" means any person who is engaged in the business of buying for resale or selling or exchanging dogs or cats, or both, as a principal or agent, or who claims to be so engaged.

"Department" means the department of agriculture and land stewardship.

"Dog day care" means a facility licensed as a commercial kennel or a boarding kennel and designed and operated with the intention that a dog admitted to the facility is allowed, in compliance with this chapter, to mingle and interact with other dogs in one or more playgroups operating in the facility.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.

"Facility" means all buildings, yards, pens and other areas, or any portion thereof, at a single location in which any animal is kept, handled, or transported for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, rescuing or otherwise transferring.

"Federal license" means a license issued by the United States Department of Agriculture to a person classified as a dealer or exhibitor pursuant to the federal Animal Welfare Act.

"Federal licensee" means a person to whom a federal license as a dealer or exhibitor is issued.

"Foster care home" means a private residence that is authorized to provide temporary shelter and care for an animal that has been accepted by a foster oversight organization.

"Foster oversight organization" means a registered animal shelter or pound or licensed dealer which has been authorized by the department to utilize foster care homes in its operation.

"Group housing" means more than four animals housed together within the same primary enclosure.

"Housing facilities" means any room, building, or area used to contain a primary enclosure or enclosures.

"Identification" means breed, color, markings, sex, and age of the dog or cat. If applicable, identification can also include a microchip number, rabies tag number, tattoo, or other similar form of identification.

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"In-home facility" means an individual required to be licensed as a boarding kennel, commercial breeder, commercial kennel, or dealer who maintains or harbors animals within the individual's residence.

"Isolation" means the separation, for the period of communicability, of infected animals from other animals in such a place and under such conditions to prevent the direct or indirect transmission of the infectious agent from those infected to those that are susceptible or that may spread the agent to others.

"Isolation facility" means the location where animals infected with disease may be placed to contain, control and limit the spread of disease.

"Kennel" means a facility, location, or area where dogs or cats are brought together or commingled for the purpose of, but not limited to, boarding, grooming, or training.

"Licensee" means any person or facility authorized to operate pursuant to Iowa Code chapter 162.

"Permittee" means a commercial breeder, dealer, or public auction to whom a permit is issued by the department as a federal licensee pursuant to Iowa Code section 162.2A.

"Person" means person as defined in Iowa Code chapter 4.

"Pet shop" means an establishment where a dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale. However, a pet shop does not include an establishment if one of the following applies:

1. The establishment receives less than \$500 from the sale or exchange of vertebrate animals during a 12-month period.

2. The establishment sells or exchanges less than six animals during a 12-month period.

"Potable water" means liquid water suitable for drinking.

"Pound" means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

"Primary enclosure" means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage, or compartment.

"Public auction" means any place or location where dogs or cats, or both, are sold at auction to the highest bidder regardless of whether the dogs or cats are offered as individuals, as a group, or by weight.

"Registrant" means a pound, animal shelter, or research facility to whom a certificate of registration is issued by the department pursuant to Iowa Code section 162.2A.

"Rescue" means a person or group of persons, licensed as a dealer, who holds itself out as an animal rescue, or who accepts, purchases, exchanges or solicits for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs and cats or who uses foster homes as a primary means of housing dogs or cats.

"Rescue manager" means any person designated by a rescue to carry out the responsibilities of the rescue.

"Research facility" means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in this state concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

"Residence" means any area or space where a person lives or resides.

"Sanitize" means to disinfect inanimate objects to eliminate as many or all pathogenic microorganisms, except bacterial spores.

"Seizure and impoundment," as used in this chapter, means either of the following:

1. The confinement of the animals to the property of the owner or custodian of the animals with provisions being made for the care of the animals pending review and final disposition.

2. The physical removal of the animals to another facility for care pending review and final disposition.

"State fiscal year" means the fiscal year described in Iowa Code section 3.12.

"State licensee" means any of the following:

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1. A boarding kennel, commercial kennel, or pet shop to whom a state license is issued by the department pursuant to Iowa Code section 162.2A.

2. A commercial breeder, dealer, or public auction to whom a state license is issued in lieu of a permit by the department pursuant to Iowa Code section 162.2A.

“*Transfer*” means to adopt, sell, give away, trade, barter, exchange, return or convey ownership of an animal.

“*Vertebrate animal*” means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species, and ostriches, rheas, or emus.

21—67.2(162) Animals included in rules. “Dog,” as that term is used in the rules, includes hybrid dog mixtures. “Animals,” as that term is used in rules relating to boarding kennels, commercial kennels, commercial breeders, dealers, public auctions, animal shelters, and pounds, means dogs and cats. “Animals,” as that term is used in rules relating to pet shops, means dogs, cats, rabbits, rodents, nonhuman primates, birds, fish other than live bait, or other vertebrate animals. This chapter does not apply to livestock as defined in Iowa Code section 717.1 or any other agricultural animal used in agricultural production as provided in Iowa Code chapter 717A.

21—67.3(162) Housing facilities and primary enclosures.

67.3(1) Housing facilities.

a. Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

b. Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to wind, rain or snow. Heat, insulation, or clean and dry bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50°F or the temperature to which the particular animals are acclimated. Indoor housing facilities shall be provided for dogs and cats under the age of eight weeks and for dogs and cats within two weeks of whelping. Dogs and cats that are not acclimated to the temperatures prevalent in the area or region where they are kept and sick, aged, young or infirm dogs and cats cannot be housed in outdoor facilities.

c. Temperature.

(1) Indoor housing facilities for dogs and cats must be capable of controlling the temperature in the housing facility and sufficiently heated and cooled when necessary to protect dogs and cats from temperature or humidity extremes and to provide for their well-being.

(2) When dogs and cats are present, the ambient temperature in the housing facility cannot fall below 50°F for dogs and cats not acclimated to lower temperatures, for breeds that cannot tolerate lower temperatures without stress or discomfort, and for sick, aged, young or infirm dogs and cats except as approved by the attending veterinarian. Heat, insulation, clean and dry bedding or other methods of conserving body heat that are adequate to provide comfort shall be provided when the atmospheric temperature is below 50°F. The ambient temperature must not fall below 45°F or rise above 85°F for more than four consecutive hours when dogs or cats are present.

d. Ventilation. Indoor and outdoor housing facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the animals. Such ventilation shall be environmentally provided so as to maintain adequate temperature and minimize drafts, moisture condensation, odors or stagnant vapors of excreta. Auxiliary ventilation, such as fans, blowers or air conditioning, must be provided when the ambient temperature is above 85°F. Relative humidity must be maintained at a level that ensures the health and well-being of the animals housed in the housing facility. Indoor housing facilities must be capable of the following:

(1) Maintaining humidity levels between 30 percent and 70 percent; and

(2) Rapidly eliminating odors from within the building.

e. Ample lighting shall be provided by natural or artificial means, or both, during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and animals contained therein.

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f. Ceilings, walls and floors shall be constructed so as to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished surfaces. No sharp or jagged edges may be present that may injure an animal. Animal contact surfaces must be free of rust.

g. Food supplies and bedding materials shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be used to store cleaning and sanitizing equipment and supplies.

h. Washrooms, basins or sinks for maintaining cleanliness among animal caretakers and the sanitizing of food and water utensils shall be provided within or be readily accessible to each housing facility.

i. Equipment shall be available for removal and disposal of all waste materials from housing facilities to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to effect the above purposes.

j. Group housing is permitted for animals that are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed in the facility. Females in estrus shall not be housed with males except for breeding purposes.

k. Facilities shall be provided to isolate diseased animals, to prevent exposure to healthy animals.

l. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided that adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown. Dog runs and exercise areas utilizing wire floors are permissible provided that they are not injurious to the animals and are adequately maintained. Wire flooring cannot cause injury to any animal contained in a dog run or exercise area that has wire flooring and must:

- (1) Have a solid resting surface of adequate size for an animal to lay on its side;
- (2) Be in good repair, free of rust and jagged or sharp edges and constructed so as to lend itself to efficient cleaning and sanitizing; and
- (3) Be of a gauge and construction to prevent bending and sagging and to prevent physical harm to an animal or entrapment of the feet of an animal housed within the primary enclosure.

m. Housing facilities and areas used for storage of food or bedding must be free of trash, garbage, waste, weeds, debris and other materials potentially harmful to animals.

n. Animal areas must be kept clean, neat, and free of clutter.

o. The department may limit the number of animals allowed in any housing facility based on, but not limited to, the number of available primary enclosures, the animal care space available within a facility, or lack of available personnel to care for the animals.

67.3(2) Primary enclosures.

a. Primary enclosures shall be of sound construction and maintained in good repair to protect the animals from injury. No sharp points or jagged edges may be present that may cause injury to an animal. Animal contact surfaces must be free of rust, jagged edges, sharp points and anything that may cause injury to an animal.

b. Construction materials and maintenance shall allow the animals to be kept clean and dry. Walls and floors shall be impervious to urine and other moisture and lend themselves to efficient cleaning and sanitizing.

c. A primary enclosure shall provide for adequate space appropriate for the age, size, weight, breed, and temperament of the animal.

d. The shape and size of the enclosure shall afford ample space for the individual animals within the enclosure. Ample space includes, but is not limited to, allowing the animal the ability to comfortably reposition, turn about, stand erect, sit or lie while limbs are fully extended. Cats must have adequate space for a litter box so that litter does not contaminate food and water.

e. No more than 12 dogs or cats shall be housed in the same primary enclosure.

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f. A nursing bitch or queen must be provided additional space. The amount of additional space required should be based on the breed and behavioral characteristics of the animal.

g. The department may limit the number of animals housed in a primary enclosure based on, but not limited to, the amount of available and usable floor space, personnel available to care for the animals and the compatibility of the animals within the enclosure.

h. Group housing is permitted for animals that are compatible with one another. Ample space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the primary enclosure. No more than 12 adult dogs or cats may be housed in the same primary enclosure. Dogs and cats shall not be housed in the same primary enclosure.

i. Elevated resting surfaces are required for cats housed in groups. Elevated resting surfaces must be collectively large enough to simultaneously hold all occupants of a primary enclosure and must be impervious to moisture, easily cleaned and sanitized, easily replaced, and of sufficient elevation for the cats enclosed in the primary enclosure to comfortably lay under the elevated surfaces.

j. Litter boxes containing clean litter shall be provided at all times for kittens and cats. Adequate litter boxes must be provided for the number of cats within a primary enclosure. Litter boxes must:

- (1) Be cleaned at minimum once daily;
- (2) Contain adequate litter and be of adequate size; and
- (3) Be cleaned and sanitized in a separate sink from food and water receptacles. If a separate sink is not available, then the sink must be cleaned and sanitized after the litter boxes are washed and before anything else is washed in the sink.

k. Animal waste, including used cat litter, must be removed from primary enclosures at minimum once daily or more frequently to prevent the accumulation of waste and contamination of the animals contained within the primary enclosure and must be discarded in accordance with state, county and local ordinances.

l. Means shall be provided to maintain the temperature and ventilation that are comfortable for the species within the primary enclosure. Lighting shall be adequate to allow observation of the animals, but the animals shall be protected from excessive illumination.

m. Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised unless the primary enclosure is of sufficient size to provide for sufficient exercise. The amount of exercise should be appropriate for the age, breed, and health condition of the animal. Impounded animals, animals deemed too dangerous to be removed from the primary enclosure, and animals undergoing rabies quarantine may be exempt from removal from their primary enclosure but must be housed in a primary enclosure large enough to allow for exercise within the primary enclosure. Animals under the medical supervision of a veterinarian may be exempt in writing from exercise if exemption is deemed medically appropriate by the attending veterinarian.

n. Doghouses with chains cannot be used as primary enclosures for dogs but may be used for the purpose of exercise. The chains used shall be placed or attached so that they cannot become entangled with the chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size of dog involved and shall be attached to the dog by means of a well-fitted collar. Such chains shall be at least three times the length of the dog as measured from the tip of the dog's nose to the base of its tail and shall allow the dog convenient access to the doghouse.

o. Primary enclosures containing wire flooring cannot cause injury to any animal contained in the primary enclosure, and the wire flooring must:

- (1) Have a solid resting surface of adequate size for an animal to lay on its side;
- (2) Be in good repair, free of rust and jagged or sharp edges and constructed so as to lend itself to efficient cleaning and sanitizing; and
- (3) Be of a gauge and construction to prevent bending and sagging and to prevent physical harm to an animal or entrapment of the feet of an animal housed within the primary enclosure.

p. When primary enclosures are stacked, all stacked enclosures must be secured so that the upper primary enclosure(s) cannot fall in a manner which may cause injury or harm to any animal. A means to prevent urine, feces, and other debris from passing into or being discharged into the underlying primary enclosure(s) is required.

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- q. All enclosures must be impermeable to water and easily cleaned and sanitized.
- r. Bedding within primary enclosures must be easily cleaned and sanitized or disposable.

21—67.4(162) General care and husbandry standards.**67.4(1) Feeding and watering.**

- a. All species covered under Iowa Code chapter 162 shall be provided with adequate feed and adequate water.
- b. Young animals and animals under veterinary care shall be fed and given water at more frequent intervals and with specific diets as their needs dictate.
- c. Water must be provided as often as necessary for the health and comfort of the animal. The frequency of providing water should be appropriate to the species, age, condition, and size of the animal as well as the environmental conditions.
- d. Water for dogs and cats must be made available at minimum two times daily for at least one hour each time.
- e. The receptacles for food and water must be:
 - (1) Readily accessible;
 - (2) Located to minimize contamination with excreta;
 - (3) Made of durable material that can easily be cleaned and sanitized or be disposable;
 - (4) Appropriate for the species, size, age and breed of animal; and
 - (5) Replaced after a single use if the receptacles are disposable.

67.4(2) Cleaning and sanitation.

- a. Housing facilities and primary enclosures shall be cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors. Dirt, hair, excreta (including but not limited to urine and feces), food waste, and other debris shall be removed from a primary enclosure daily or at a frequency to prevent their accumulation and the contamination of the animals contained within the primary enclosure.
 - (1) When primary enclosures are stacked, a means to prevent urine, feces and other debris from passing into or being discharged into the underlying primary enclosure(s) is required.
 - (2) Pressure water systems or live steam may be used for cleaning if animals are removed while the cleaning takes place.
- b. Housing facilities and primary enclosures shall be sanitized at intervals not to exceed two weeks or sanitized more frequently as may be necessary to reduce disease hazards. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement of the soiled materials with clean surface materials. Dirt, hair, excreta, food waste, and other debris shall be removed before sanitizing begins. Manufacturer labels shall be followed for dilution and contact time for all soaps, detergents, disinfectants, or other chemicals used for sanitization.
- c. An effective program shall be established and maintained for the control of vermin infestation.
- d. Before a primary enclosure, food receptacle or water receptacle is used for another animal, the primary enclosure, food receptacle or water receptacle shall be cleaned and sanitized.

67.4(3) Veterinary care.

- a. Programs of disease prevention and control shall be established in writing and maintained.
- b. Sick, diseased or injured animals shall be provided with prompt veterinary care or disposed of by euthanasia. Euthanasia must be performed in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: 2013 Edition.
- c. All species regulated under Iowa Code chapter 162 that are infected with contagious diseases shall be immediately placed into isolation facilities as provided for in this paragraph to prevent exposure to healthy animals. Isolation facilities must be an area separate from the remainder of the animals in a facility with the ability to contain disease and to reduce the risk of disease spread. Animals in isolation must be cared for separately from the remainder of the animals in a facility. All equipment and

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supplies used for animals in an isolation facility must be cleaned and disinfected prior to removal from the isolation facility or discarded in a manner that prevents disease spread.

d. Dogs and cats within all commercial establishments must be vaccinated for rabies when age appropriate unless exempted by Iowa Code section 351.42.

e. All dogs and cats taken into the care of a dealer, or transported into housing facilities regulated under Iowa Code chapter 162, excluding pounds and animal shelters, shall have been vaccinated against distemper, parvo and rabies, unless exempted by direct written recommendation of the owner's veterinarian or exempted by Iowa Code section 351.42 before entering the housing facility or being taken into the care of a dealer. Rabies titers shall not be accepted by a commercial establishment in lieu of a rabies vaccination.

f. Animal shelters and pounds must vaccinate dogs and cats in their care for rabies, distemper and parvo within a reasonable time of the dog or cat entering the animal shelter or pound. Animal shelters and pounds must also keep dogs and cats current on vaccinations for rabies, distemper and parvo.

g. Vaccine titers shall not be accepted as a form of vaccine verification. Vaccine records and written vaccine exemptions shall be kept on file. Acceptable forms of documentation for vaccine verification include the following:

- (1) Written documentation of vaccination from a veterinarian.
- (2) A rabies certificate signed by a veterinarian.

h. Dogs and cats brought into the state of Iowa must meet importation requirements under rule 21—65.10(163).

i. Commercial establishments, excluding commercial kennels and boarding kennels, shall enter into a written agreement with a veterinarian licensed by the state of Iowa to provide veterinary care for the animals maintained in the facility. The agreement shall include a requirement that the veterinarian visit the facility at least once every 12 months for the purpose of viewing all the animals in the facility, making a general determination concerning the health/disease status of the animals, and reviewing the facility's program for disease prevention and control. If during the course of the visit, the veterinarian identifies an animal that requires a more detailed individual examination to determine the specific condition of the animal or to determine an appropriate course of treatment, then such examination shall be undertaken.

j. Commercial kennels and boarding kennels must have a written agreement with a veterinarian licensed by the state of Iowa to provide veterinary care for an animal in their care should veterinary care be required.

k. If during an inspection of a facility the department finds an animal which appears to have a physical condition or disease that, in the opinion of the inspector, requires a veterinarian's attention, the department may order that the licensee subject the animal to a veterinarian's examination at the licensee's expense. The department may require the licensee to submit written proof of the veterinarian's examination and results of the examination within a time frame set by the department.

l. Animals within housing facilities must be observed at least once in a 24-hour period.

67.4(4) Personnel.

a. The owner or personnel shall be present at least once in each 24-hour period to supervise and ascertain that the care of animals and maintenance of facilities conform to all of the provisions of Iowa Code chapter 162.

b. A sufficient number of qualified personnel shall be utilized to provide the required care of animals and maintenance of facilities during normal business hours.

21—67.5(162) Transportation.

67.5(1) Primary enclosures for transportation. Primary enclosures are required within transportation vehicles.

a. Primary enclosures utilized in transportation shall:

(1) Be of sound construction, maintained in good repair to ensure protection of animals from injury, and readily cleaned and sanitized;

(2) Be free of sharp points, jagged edges or protrusions that could injure the animal; and

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(3) Securely contain the animal so that the animal cannot injure itself, its handler or any persons or animals nearby.

b. Floors and lower sides shall be constructed or covered on the inner surfaces so as to contain excreta and bedding materials.

c. Adequate space shall be provided so that the animal(s) contained in the primary enclosure may comfortably turn about, stand erect, sit or lie.

d. Openings shall be provided in primary enclosures so that adequate ventilation can be maintained when the primary enclosures are positioned in the transporting vehicle.

e. Primary enclosures shall be cleaned and sanitized before each trip and between animals.

f. The temperature within primary enclosures shall not be allowed to exceed the atmospheric temperature. During transportation, the ambient temperature inside the primary enclosure cannot exceed 85°F for a period of more than four hours, nor may the temperature fall below 45°F for a period of more than four hours. Auxiliary ventilation, such as fans, blowers or air conditioning must be used in the animal space when the ambient temperature in the space reaches 85°F.

67.5(2) Vehicles.

a. Protection shall be afforded to primary enclosures transported in the vehicle, sheltering the animals from drafts and extremes of hot or cold temperatures to which they are not acclimated.

b. Primary enclosures used in transportation shall be securely positioned in the vehicle to protect the animals from injury.

67.5(3) Care in transit.

a. Animals in transit shall be provided adequate feed and adequate water as defined in rule 21—67.1(162).

b. Incompatible animals shall not be placed together during shipment. Females in estrus shall not be placed in the same primary enclosure with a male.

c. Animals shall be inspected at least once in each four-hour period and the primary enclosures cleaned if necessary and the emergency needs of the animals attended to immediately.

d. Animals shall be removed for exercise and their enclosures cleaned if the animals have been en route for a six-hour period.

21—67.6(162) Purchase, sale, trade and adoption.

67.6(1) Records shall be made and retained for a period of 12 months for any change of ownership of a dog, cat or nonhuman primate, including but not limited to any sale, exchange, transfer, trade, or adoption from any commercial establishments. Records shall be similarly kept on other small vertebrate animals sold or transferred, except that individual identifications shall not be required. Records shall include the following:

a. Date of change of ownership;

b. Identification of animal;

c. Names, mailing addresses, telephone numbers, and email addresses, if available, of seller and purchaser or transferor and recipient;

d. State of Iowa animal welfare license number of the seller or transferor;

e. Source of the animal;

f. Date animal entered the care of and left the care of the commercial establishment;

g. Method and date of euthanasia, if applicable;

h. Transfer of animal within or between commercial establishments.

67.6(2) All commercial establishments shall furnish a statement of sale, exchange, transfer, trade, or adoption to each purchaser or recipient of a dog, cat, nonhuman primate, bird, or other vertebrate animal. This statement shall include the following:

a. Names, mailing addresses, telephone numbers, and email addresses, if available, of the seller or transferor and the purchaser or recipient;

b. State of Iowa animal welfare license number of the seller or transferor;

c. Date of sale, transfer, trade, adoption, exchange or any other change of ownership;

d. Description or identification of vertebrate sold;

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- e.* List of prophylactic immunization(s) given, including date(s) administered (if applicable);
- f.* List of internal parasite medication(s) given and date(s) administered (if applicable); and
- g.* Description of other medical care provided to the animal, including type of medical care received and date(s) of medical care.

67.6(3) All vertebrate animals regulated under Iowa Code chapter 162 which are known to be exposed to or show symptoms of having infectious and contagious diseases or which show symptoms of parasitism or malnutrition or other signs of illness sufficient to adversely affect the health of the animals are restricted from sale or transfer. The secretary of agriculture may order quarantine on premises or housing facilities in which any of the conditions listed in this subrule exist. Quarantine shall be removed when at the discretion of the secretary or the secretary's designee, the disease conditions for which quarantined are no longer evident and the apparent health of the animals indicates absence of contagion.

67.6(4) For the purposes of determining an individual's obligation to be licensed under Iowa Code section 162.8, "breeding animal" includes any sexually intact animal over the age of 12 months.

21—67.7(162) Public health.

67.7(1) Animal wardens aiding in the enforcement of the provisions of Iowa Code chapter 162 shall enlist veterinary aid in programming control measures to protect the public from zoonotic diseases which may be suspected to be on the premises of a licensee or registrant.

67.7(2) Animals, housing facilities, or premises may be placed under quarantine by order of the secretary of agriculture when it is deemed necessary to protect the public from zoonotic diseases.

21—67.8(162) Boarding kennels, commercial kennels, animal shelters, pounds and dealers.**67.8(1)** *Boarding kennels and commercial kennels.*

a. Records shall be made and retained for a period of 12 months for each animal boarded, groomed or trained. Records shall include the following:

- (1) Owner's name, address, telephone number and email address;
- (2) Identification of animal;
- (3) Duration of animal's stay;
- (4) Service(s) provided;
- (5) Any illnesses which have occurred and veterinary treatment the animal received; and
- (6) Written documentation of the animal's vaccinations or vaccination exemptions from a veterinarian.

b. All dogs and cats transported into boarding kennels and commercial kennels regulated under Iowa Code chapter 162 shall have been vaccinated against distemper, parvo and rabies, unless exempted by Iowa Code section 351.42 or the direct written recommendation of a qualified veterinarian. Vaccine records and exemptions must be kept on file for a period of 12 months for each animal boarded, groomed, or trained.

c. Vaccine titers shall not be accepted as a form of vaccine verification. Vaccine records and written vaccine exemptions shall be kept on file. Acceptable forms of documentation for vaccine verification include the following:

- (1) Written documentation of vaccination from a veterinarian;
- (2) A rabies certificate signed by a veterinarian.

d. Animals exhibiting symptoms of disease shall be promptly examined and treated by a veterinarian.

e. Group housing is permitted only if the animals are owned by the same person and are compatible.

f. Grooming and training utensils and equipment shall be cleaned and sanitized between use on animals owned by different persons.

g. Primary enclosures shall be cleaned and sanitized between use in containing animals owned by different persons. Primary enclosures must be cleaned at least once daily and sanitized weekly for animals staying overnight.

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h. Primary enclosures shall utilize latches that cannot be inadvertently opened or shall be equipped with some form of locking device so as to prevent the accidental release of the animal contained in the primary enclosure.

67.8(2) *Animal shelters and pounds.*

a. Dogs, cats and other vertebrates upon which euthanasia may be permitted by law shall be destroyed only by euthanasia in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: 2013 Edition.

b. Animal shelters and pounds shall develop and implement a plan providing for the surgical sterilization of all dogs and cats released, unless exempted from this provision in accordance with Iowa Code section 162.20(5).

c. Sterilization agreements shall contain the following:

- (1) The name, address and signature of the person receiving custody of the dog or cat.
- (2) A complete description of the animal, including any identification.
- (3) The signature of the representative of the pound or animal shelter.
- (4) The date that the agreement is executed and the date by which sterilization must be completed.
- (5) A statement which states the following:

1. Sterilization of the animal is required pursuant to Iowa Code section 162.20.

2. Ownership of the dog or cat is conditioned upon the satisfaction of the terms of the agreement.

3. Failure to satisfy the terms of the agreement constitutes a breach of contract, requiring the return of the dog or cat.

4. A person failing to satisfy the sterilization provisions of the agreement is guilty of a simple misdemeanor.

d. In addition to maintaining the records required by subrule 67.6(1), animal shelters and pounds shall maintain, for a period of 12 months, the following records:

(1) Euthanasia records, including date of entry, source of animal, and date of euthanasia.

(2) Sterilization agreements, including confirmation in the form of a receipt furnished by the office of the attending veterinarian.

(3) Disposition records of all animals lawfully claimed by owners, research facilities, or Class B federal dealers.

e. A pound or animal shelter may apply in writing for an enforcement waiver pursuant to Iowa Code section 162.20(5) "b." The application shall include the specific guidelines under which the waiver is being requested and a certified copy of the ordinance providing the basis for the waiver application. A waiver application fee of \$10 shall accompany the application.

f. A pound or animal shelter shall be subject to civil penalties as provided in Iowa Code section 162.20(3) "c" for not procuring and maintaining required records documenting compliance with the sterilization agreement, successfully seeking return of the animal from a noncompliant custodian, failing to effect a sterilization agreement when required for an animal which is released, or seeking legal recourse as provided in Iowa Code section 162.20(4). The pound or animal shelter shall be entitled to appeal pursuant to Iowa Code chapter 17A.

67.8(3) *Dealers.*

a. A dealer license is required to operate as a dealer in Iowa. This requirement applies to residents and nonresidents of Iowa, including dealer foster homes in Iowa.

b. All dogs and cats taken in by or in the possession of a dealer must be vaccinated and kept current against distemper, parvo and rabies, unless exempted by Iowa Code section 351.42 or the direct written recommendation of a qualified veterinarian. A signed rabies certificate or other written documentation from a veterinarian is required to verify vaccination compliance. Vaccine titers are not sufficient for demonstrating vaccine compliance. Dealers must provide vaccine records or exemptions to the department upon request.

c. Dogs and cats brought into the state of Iowa must meet the importation requirements stated in rule 21—65.10(163).

d. A dealer with housing facilities must meet the requirements provided for housing facilities and primary enclosures in rule 21—67.3(162) and in-home facilities in rule 21—67.14(162).

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- e.* A dealer must maintain records and statement of sales as provided for in rule 21—67.6(162).
- f.* A dealer approved by the department to act as a fostering oversight organization must meet the requirements for fostering oversight organizations and foster care homes provided in rule 21—67.16(162). A dealer may not utilize or oversee a foster home without prior written authorization of the department of agriculture.

21—67.9(162) Access, seizure and impoundment.

67.9(1) Access to facilities and records. The premises, housing facilities and records required by Iowa Code chapter 162 and this chapter shall be open for inspection by authorized personnel of the department during normal business hours.

67.9(2) Seizure and impoundment.

a. Failure of any pound, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction or dealer to adequately house, feed, water or care for the animals in the person's or facility's possession or custody may subject the animals to seizure and impoundment. Seizure and impoundment shall be at the discretion of the secretary of agriculture. Standards to guide discretion shall include, but not be limited to, the following:

(1) An assessment of the condition of the animals, including but not limited to direct visual examination. Such assessment may include procedures and testing necessary to accurately determine disease, nutritional, and health status.

(2) An assessment as to the likelihood that the condition of the animals will deteriorate if action is not taken.

(3) An assessment as to the degree of failure to provide for the animals. Primary consideration will be based on the general health of the animals and the adequacy with which the animals are being fed, watered and sheltered.

(4) An assessment as to the history, if any, of the facility's compliance, noncompliance, and willingness to take corrective action. Such an assessment will be based on past inspection reports completed by regulatory personnel from the appropriate licensing agency.

(5) Court determination, if any, as to the existence of cruelty, abuse or neglect under Iowa Code chapter 717B.

(6) The willingness of the facility to allow frequent monitoring and the ability of the department or local law enforcement officers to provide this service.

(7) A determination as to whether adequate impoundment facilities or resources exist and are available for use by the department for the seizure and impoundment of animals.

b. In proceeding under this subrule, the department may either:

(1) Petition the court in the county where the facility is located for an ex parte court order authorizing seizure and impoundment, either separately or as part of an action commenced pursuant to Iowa Code chapter 717B. The petition shall request an expedited hearing within seven days of the order for seizure and impoundment. The expedited hearing shall determine final disposition of the animals seized and impounded.

(2) Issue an administrative order authorizing seizure and impoundment. The order shall state the finding of facts on which issuance of the order was based. The order shall be personally served upon the owner or manager of the facility. If the owner or manager cannot be found after a reasonable effort to locate, the notice shall be posted conspicuously at the facility. The notice shall state the time and place of an administrative hearing to determine the appropriateness of the seizure and impoundment; and if such seizure and impoundment is upheld, then the hearing shall determine final disposition of the animals seized and impounded.

The administrative hearing shall be held within three days of the seizure unless a continuance is agreed upon by the department and the owner. A decision at the administrative hearing will not be stayed by the department for more than 48 hours pending appeal without a court order. However, the department may delay the disposition if the department determines the delay is desirable for the orderly disposition of the animals. Unless otherwise provided in this subrule, the department will follow adopted departmental rules on the conduct of the administrative hearing.

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c. The release of animals for final disposition to the department will allow for the sale, adoption or euthanasia of the animals. Determination of the most appropriate option for final disposition of a specific animal shall reside with the department and be based on, but not limited to, the animal's physical health, the presence of any condition which would necessitate treatment of significant duration or expense, and the appropriateness of the animal as a pet. All due consideration shall be given to the sale or adoption of an animal as the preferable option of disposition.

d. Any moneys generated from the sale or adoption of animals shall be used to provide compensation for the cost of care of the animals while impounded or the cost of disposition. Any residual moneys shall be directed to the owner. If the moneys generated from the sale and adoption of the animals are insufficient to meet the costs incurred in caring for the animals, the difference may be recovered in an action against the owner of the animals.

e. The department may arrange for impoundment services, including final disposition, with any licensed facility able to adequately provide for the care and disposition of the animals. Animals for which an order is issued authorizing seizure and impoundment shall be individually identified and records maintained relating to their care and final disposition. The department, or its representatives, shall be allowed access during normal business hours to the records and impounded animals.

f. In lieu of seizure and impoundment, the secretary of agriculture may authorize a one-time dispersal of animals, including by sale, as a remedial option. The owner may petition the department in writing for full or partial dispersal. The petition shall address the terms and conditions for dispersal which are being requested. The department may require additional terms and conditions. The terms and conditions governing dispersal will be contingent upon department approval. Such approval shall be in writing.

g. Conditions of this subrule and subrule 67.9(1) and Iowa Code sections 162.13 and 162.14 shall likewise apply to all eligible licensees and registrants, whether or not they have been properly licensed by Iowa Code chapter 162.

21—67.10(162) Applicability to commercial establishments with federal licenses. In addition to obtaining the permit from the department, any person who operates a commercial establishment under a current and valid federal license shall provide care ensuring adequate feed, water, and housing facilities and appropriate sanitary control, grooming practices and veterinary care. The department has the authority to inspect the premises and the required records.

21—67.11(162) Acceptable forms of euthanasia. The euthanasia of all animals kept in facilities regulated under Iowa Code chapter 162 and these rules shall be performed in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: 2013 Edition. A copy of this report is on file with the department.

21—67.12(162) Loss of license or denial of license.

67.12(1) If the license of a licensee is revoked or is relinquished by the licensee while a revocation action is pending, the licensee shall not be eligible to reapply for a new license for at least three years from the date of the revocation or relinquishment. If a licensee has been found in court to have committed an act of animal cruelty or neglect, the licensee shall not be eligible for a new license for at least five years from the date of the revocation or relinquishment. If an applicant has been found in court to have committed an act of animal cruelty or neglect, the applicant shall not be eligible for a license for at least five years from the date of the conviction or guilty plea. The prohibition against relicensure or licensure in this subrule shall include any partnership, firm, corporation, or other legal entity in which the person has a substantial interest, financial or otherwise, and any person who has been or is an officer, agent or employee of the licensee if the person was responsible for or participated in the violation upon which the revocation or conviction was based. The department may waive the three-year bar to relicensure arising from a revocation or relinquishment of a license where a revocation action was pending. Such waiver shall be made on a case-by-case basis. Such waiver shall only be given if the department finds that the

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conditions which resulted in the revocation or revocation action have been addressed and there is little likelihood that they will be replicated.

67.12(2) If the license of a licensee is revoked or if the license is voluntarily relinquished by the licensee, the licensee shall file with the department a written plan detailing the numbers and types of animals in its facilities and how these animals are going to be legally disposed of to ensure that the animals are being humanely handled and to ensure that the remaining animals are being maintained properly. The licensee shall submit this plan to the department no later than ten calendar days from the date of revocation or relinquishment of the license.

21—67.13(162) Dog day cares.

67.13(1) Purpose. The purpose of a dog day care is to allow dogs participating in the day care to become socialized through interaction in playgroups with other compatible dogs.

67.13(2) Subclassification of license. Dog day cares can operate as a subclassification of a commercial kennel license or boarding kennel license. A commercial kennel or a boarding kennel that operates as a dog day care shall not provide overnight boarding or other kennel activities unless, during the time that the day care operation is closed, the kennel is operated in a manner consistent with applicable rules including, but not limited to, paragraphs 67.3(1)“j” and 67.8(1)“e” that restrict the commingling of dogs.

67.13(3) Approval based on number of dogs. The department will approve a dog day care for a maximum number of dogs based on, but not limited to, available space, available staff, and staff’s ability to supervise dogs.

67.13(4) Facility requirements. A facility licensed to be a dog day care shall meet the housing facility and primary enclosure requirements provided for in rule 21—67.3(162). The dog day care shall also comply with the following facility requirements:

- a. Group interaction is permitted for dogs that are compatible with one another.
- b. The play area for dogs shall provide for a minimum of 75 square feet per dog. Play areas smaller than 1,125 square feet must have a sign placed at the entry of the play area stating the maximum number of dogs allowed in the play area at any one time.
- c. Each dog attending a dog day care must have a primary enclosure. When not under direct supervision, dogs at a dog day care must be housed within a primary enclosure at all times. Group housing within a primary enclosure is permitted for dogs from the same household.

67.13(5) Sanitation requirements A facility licensed to be a dog day care shall comply with the cleaning and sanitation standards provided for in rule 21—67.2(162) and the following requirements:

- a. All areas to which a dog has access shall be cleaned and sanitized a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.
- b. Used primary enclosures and food and water receptacles must be cleaned and sanitized before they can be used to house, feed or water another animal.

67.13(6) Operations. A facility licensed to be a dog day care shall comply with the following operational standards:

a. A dog, including a dog owned by the dog day care owner or a dog day care employee, shall be admitted into a dog day care only after the day care has:

(1) Subjected the dog to a pre-entry screening process that adequately evaluates the temperament of the dog, the dog’s ability to interact with other dogs in a positive manner, and the dog’s ability to interact with humans in a positive manner. The screening shall include, but not be limited to, obtaining a social history of the dog from the dog’s owner. A written record of the testing shall be maintained by the facility for the time the dog is enrolled in the day care. The day care shall not admit any dog into the day care if the dog has a predisposition to be possessive of either the facility or a person owning or working in the facility. The day care shall not admit any dog that is known to have a predisposition of aggression toward other dogs or people.

(2) Obtained from the dog’s owner written documentation of the medical history of the dog, including the dog’s current vaccination status against distemper, parvo and rabies, unless exempted by direct, written recommendation of the owner’s veterinarian or exempted by Iowa Code section 351.42.

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(3) Obtained written documentation that the dog has been spayed or neutered, if the dog is over six months of age.

(4) Obtained a written acknowledgment from the dog's owner that the owner understands the inherent risk of injury or disease when dogs owned by different people are allowed to commingle. This written acknowledgment shall be separately signed or initialed by the dog's owner.

b. The dog day care shall separate dogs in the dog day care into playgroups comprised of compatible dogs. Dogs of incompatible personalities or temperament shall be maintained separately.

c. The dog day care shall make advance arrangements in writing with a veterinarian to provide emergency veterinary care for dogs at the dog day care. This agreement must be updated annually.

d. A sick, diseased or injured dog shall be immediately removed from the playgroup and isolated. If circumstances indicate that immediate veterinary care is required, the dog shall be taken to a veterinarian or a veterinarian shall be called to examine the dog. The veterinarian can be either a veterinarian whose services have been contracted for by the dog day care or the veterinarian designated by the dog's owner, if a timely examination by that veterinarian is feasible.

e. The feeding of a dog and giving of snacks to a dog shall only be provided when the dog receiving the food or snack is contained within a primary enclosure.

f. A dog day care shall not establish a playgroup composed of more than 15 dogs.

g. A dog day care shall employ sufficient staffing so that there is a minimum of one person assigned to each playgroup. The person supervising a playgroup must provide direct supervision at all times.

h. At all times, a dog day care must ensure that dogs are safe within the dog day care group.

i. Rest time within a primary enclosure must be provided for a minimum of two hours per day. Direct supervision is not required while dogs are housed within primary enclosures.

21—67.14(162) In-home facilities.

67.14(1) *Maximum number of animals.* An in-home facility may not maintain or harbor more than six adult animals, including both breeding dogs or cats and surgically sterilized dogs or cats, in the individual's residence.

67.14(2) *Standards.* Notwithstanding subrules 67.4(1) and 67.4(2), an in-home facility shall comply with the following standards:

a. Food supplies and bedding shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be used to store cleaning and sanitizing equipment and supplies.

b. Ample lighting shall be provided by natural or artificial means, or both, during sunrise to sunset hours. Animals shall be protected from excessive illumination.

c. The building shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

d. Facilities shall be available to isolate diseased animals to prevent exposure to healthy animals.

e. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided that adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown.

f. Group housing is permitted for animals that are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the facility. Females in estrus shall not be housed with males, except for breeding purposes.

g. Every animal in an in-home facility must have a designated primary enclosure.

h. Litter boxes containing clean litter shall be provided at all times for kittens and cats. Litter boxes must be maintained as provided for in paragraph 67.3(2) "j."

i. Means shall be provided to maintain the temperature and ventilation that are comfortable for the species at all times.

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j. Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised. The amount of exercise should be appropriate for the age, breed and health condition of the animal.

k. Housing facilities shall be cleaned as set out in subrule 67.3(2) to reduce disease hazards, and an effective program shall be established and maintained for the control of vermin infestation. All surfaces within the in-home facility must be readily cleaned and maintained in good repair.

21—67.15(162) Rescues.

67.15(1) *Rescue manager.* A rescue must designate a rescue manager to carry out the responsibilities of the rescue. The responsibilities of a rescue manager include, but are not limited to, the following:

- a.* Establishing criteria for approving foster homes;
- b.* Approving foster homes;
- c.* Supervising dogs and cats taken into the care of the rescue;
- d.* Monitoring and ensuring all foster homes under the rescue's oversight are providing proper care and compliance with relevant laws and rules; and
- e.* Maintaining rescue records. Such records shall include, but are not limited to, the following:
 - (1) Source of the dog or cat;
 - (2) Date of placement of the dog or cat into a foster home;
 - (3) Adoption records;
 - (4) Disposition of dog or cat (if applicable);
 - (5) Medical care received by the dog or cat; and
 - (6) Vaccination and deworming records.

67.15(2) *Records.* Rescue records must be made available to the department upon request. A rescue must maintain records and statement of the sale, exchange, transfer, trade or adoption as provided for in rule 21—67.6(162).

67.15(3) *Vaccine requirements.* All dogs and cats taken in by or in the possession of a rescue shall have been vaccinated against distemper, parvo and rabies and kept current on distemper, parvo and rabies vaccinations, unless exempted by Iowa Code section 351.42 or by direct written recommendation of a qualified veterinarian. A signed rabies certificate and written documentation of parvo and distemper vaccinations from a veterinarian are required to verify vaccination. Titers are not an acceptable form of vaccine verification. Vaccine titers are not sufficient for demonstrating vaccine compliance. Dealers must provide vaccine records or written exemptions to the department upon request.

67.15(4) *Importation requirements.* Dogs and cats brought into the state of Iowa must meet the importation requirements stated in rule 21—65.10(163).

67.15(5) *Housing facilities and primary enclosures.* A rescue with housing facilities must meet the requirements for housing facilities and primary enclosures in rule 21—67.3(162). Rescues operating as in-home facilities must meet the requirements in rule 21—67.14(162).

67.15(6) *Foster care homes.* A rescue approved by the department to act as a foster oversight organization must meet the requirements for foster oversight organizations and foster care homes provided in rule 21—67.16(162). A dealer may not utilize or oversee a foster home without prior written authorization of the department.

67.15(7) *General care and husbandry.* A rescue must meet the general care and husbandry standards provided for in rule 21—67.3(162).

67.15(8) *Transportation.* A rescue transporting animals must meet the requirements provided in rule 21—67.5(162).

21—67.16(162) Foster oversight organizations and foster care homes.

67.16(1) A registered animal shelter, registered pound or licensed dealer shall not operate a foster care home or operate an organization that utilizes a foster care home unless the shelter, pound or dealer is in compliance with this rule and other applicable provisions of this chapter and Iowa Code chapter 162. If an out-of-state organization is utilizing foster care homes in Iowa, that organization must also be licensed or registered in the state of Iowa as an animal shelter, pound or dealer.

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67.16(2) A registered animal shelter, registered pound or licensed dealer may apply to the department for a permit authorizing the shelter, pound or dealer to utilize one or more foster care homes in carrying out its mission of providing for the care and maintenance of an animal that has been taken in or entrusted to the animal shelter, pound or dealer. For purposes of this rule, an animal shelter, pound or dealer that has been granted such authorization shall be considered a foster oversight organization.

67.16(3) A registered animal shelter, registered pound or licensed dealer may not utilize a foster care home unless the shelter, pound or dealer has been granted authorization by the department to be a foster oversight organization. An animal shelter, pound or dealer that uses a foster care home without first obtaining a permit authorizing the shelter, pound or dealer to be a foster oversight organization shall be considered to be operating illegally, shall be subject to suspension or revocation of its license to operate, and may be subject to other penalties authorized in Iowa Code chapter 162.

67.16(4) A registered animal shelter, registered pound or licensed dealer seeking to obtain a permit to be a foster oversight organization shall make application to the department on a form prescribed by the department. When feasible, the application shall be submitted to the department at the same time that the registered animal shelter, registered pound or licensed dealer submits its certificate of registration renewal or license renewal application. The permit application shall provide sufficient information to allow the department to determine the ability of the proposed foster oversight organization to provide adequate screening and oversight of any foster care home operating under the authority of the foster oversight organization.

a. Such application shall include, but not be limited to, the following information:

(1) The proposed foster oversight organization's plan for providing oversight of the foster care home. The plan shall include the frequency of inspections of the foster care home by the foster oversight organization and the criteria to be used by the foster oversight organization in reviewing the foster care home during periodic inspections. The plan shall also include the actions to be taken by the foster oversight organization in the event that the foster oversight organization determines that the foster care home is not adequately providing for the animals in the foster care home. Foster oversight organizations shall inspect foster care homes annually, at minimum, and an annual written inspection report must be on file with the foster oversight organization. Annual inspection reports shall be retained for a minimum of two years.

(2) The name, mailing address, email address and telephone number of the staff person connected with the proposed foster oversight organization who will have primary responsibility for administering the proposed foster care program.

(3) The name, mailing address, email address and telephone number of a secondary staff person connected with the proposed foster oversight organization who will have responsibility for administering the proposed foster care program in the absence of the primary administrator.

(4) The number of foster care homes the foster oversight organization is applying for and currently oversees. During the first year of application, the foster oversight organization will be limited to a maximum of 20 foster care homes. Upon renewal of the foster oversight organization permit, the foster oversight organization may apply for more than 20 foster care homes, subject to the approval of the department.

(5) Copies of all forms utilized by the foster oversight organization. This includes, but is not limited to, inspection forms and applications.

(6) The number of paid employees, both full-time and part-time, working for the foster oversight organization, the number of volunteers serving the foster oversight organization, and the number of volunteer hours utilized per week.

(7) The criteria used to determine if a foster care home is capable of caring for an animal.

(8) The actions taken by the foster oversight organization if the foster care home is unable to care for an animal.

b. If the foster oversight organization changes locations, a new application must be submitted.

c. If the primary or secondary contact listed on the application is no longer associated with the foster oversight organization, the department must be notified and provided with the name, mailing address, email address and telephone number of the staff person administering the foster care program.

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d. The foster oversight organization must provide documentation to demonstrate that the foster oversight organization has sufficient infrastructure to adequately supervise all foster care homes and the care of the animals within the foster care homes.

67.16(5) The initial approval of a foster oversight organization shall be in effect only until the next expiration date of the registered animal shelter's, registered pound's, or licensed dealer's license. Thereafter, a foster oversight organization permit renewal shall be concurrent with the facility's certificate of registration or license renewal, unless circumstances otherwise require.

Foster oversight agreements must be renewed yearly at the same time that the registered animal shelter, registered pound, or licensed dealer submits its certificate of registration renewal application. The renewal agreement must contain the number of foster care homes for which the animal shelter or pound is requesting approval.

67.16(6) A foster oversight organization shall require that all persons seeking to operate a foster care home under the foster oversight organization submit a written application to the foster oversight organization specifying the proposed foster care home's qualifications, including, but not limited to, the ability of the foster care home to provide adequate care, exercise, feed, water, shelter, space, and veterinary care.

67.16(7) A foster oversight organization shall not be authorized to approve more than 20 foster care homes during the first year of operation. In granting a permit to a foster oversight organization, the department may further restrict the number of foster care homes a particular foster oversight organization may utilize if the department determines that the foster oversight organization does not have adequate personnel to supervise the number of foster care homes for which authorization was sought or the adequate ability to care for all animals in foster care. The department may authorize the foster oversight organization to approve more than 20 foster care homes only if the department finds that the foster oversight organization has and maintains adequate personnel assigned to provide sufficient oversight of foster care homes.

67.16(8) A foster oversight organization shall not authorize a foster care home to have in its care more than six animals, including animals owned by the foster care home, with the exception of a litter of puppies or kittens under 16 weeks of age. A litter of puppies or kittens under 16 weeks of age is considered the equivalent of one dog or cat. The mother of the litter of puppies or kittens is considered one dog or cat. No more than two litters of puppies or kittens under 16 weeks of age may be in a foster home at any given point in time.

67.16(9) A person who has been found to have engaged in or participated in an act constituting animal abandonment, neglect, cruelty, or abuse shall not be authorized to operate a foster care home. In addition, if a person has had a license or permit issued under Iowa Code chapter 162 or under the United States Department of Agriculture's animal care program revoked or has surrendered that person's license in lieu of revocation, then that person shall not be authorized to operate a foster care home.

67.16(10) A foster oversight organization shall not place a sexually intact animal in a foster care home where there is a sexually intact animal of the opposite sex of the same species unless the foster oversight organization determines that the fostered animal is too young to breed. If the foster oversight organization determines that a sexually intact animal may be placed in a foster care home with another sexually intact animal of the opposite sex of the same species because the fostered animal is too young to breed, then the foster oversight organization shall monitor the physical development of the fostered animal to either remove the animal before it is capable of breeding or to neuter or spay the fostered animal.

67.16(11) The foster oversight organization shall retain a copy of all the following documents for a period of 24 months and shall make such documents available for inspection by the department during regular business hours:

a. Applications to operate a foster care home, including any written approvals, conditional approvals, or denials.

b. Inspections or other reports relating to the operation of a foster care home. Inspection forms must be kept on file for each foster home. Inspections of a foster care home must be conducted by the foster oversight organization at minimum yearly.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

c. Any written complaints or notes written by staff of the foster oversight organization relating to an oral complaint against a foster care home.

d. Any documents relating to the investigation or other resolution of a complaint regarding a foster care home.

e. Any documents relating to the revocation or suspension of a foster care home's authorization.

f. A current list of animals in foster care homes.

67.16(12) The foster oversight organization shall maintain detailed records as to which animals have been placed in a foster care home, when each animal was placed in a foster care home, and the ultimate disposition of each animal.

67.16(13) All adoptions and euthanasias of animals placed in a foster care home shall be the responsibility of the foster oversight organization and shall not be performed by the foster care home unless an emergency euthanasia must be performed by a licensed veterinarian to prevent the needless suffering of the animal.

67.16(14) All deaths, injuries, or emergency euthanasias occurring within a foster care home shall be reported to the foster oversight organization within 24 hours of the event.

67.16(15) It is the primary responsibility of the foster oversight organization to provide for oversight and regulation of its foster care homes; however, the department may choose to inspect a foster care home if the department determines that it would be in the best interests of the animals being maintained in the foster care home to conduct the inspection or if the department deems an inspection desirable to determine whether a foster oversight organization is properly fulfilling its role of screening and oversight of foster care homes. If the department determines that either serious or chronic problems exist in a foster care home, the department may order the foster oversight organization to suspend or rescind the authorization of the foster care home. The foster oversight organization shall immediately obtain physical examinations of all animals previously placed in the foster care home.

67.16(16) If the department determines that a foster oversight organization is not providing adequate screening or oversight of its foster care homes, the department may suspend or rescind the foster oversight organization's authorization to use foster care homes.

67.16(17) If the department suspends or revokes the license of an animal shelter, pound or dealer that is also a foster oversight organization, then the authorization to operate of the foster oversight organization and that of the foster care homes operating under the foster oversight organization shall immediately cease.

21—67.17(162) Greyhound breeder or farm fee. A person who owns, keeps, breeds, or transports a greyhound dog for pari-mutuel wagering at a racetrack as provided in Iowa Code chapter 99D shall pay a fee of \$40 for the issuance or renewal of a state license.

These rules are intended to implement Iowa Code chapter 162.

ARC 4697C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rule making related to cooperative interstate shipment program and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 189A.13.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 189A.

Purpose and Summary

The purpose of this proposed rule making is to accomplish the following:

- By the adoption of 9 CFR Part 332 by reference, allow the Department to participate in the United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) Cooperative Interstate Shipment (CIS) Program.
- Provide opportunity for state-inspected meat and poultry establishments to develop new markets for their products. Under the CIS Program, state-inspected plants continue to operate under state inspection but adhere to federal food safety standards. As a result, they can also distribute their products in interstate commerce.

The CIS Program is available to states that have established a meat and poultry inspection program that is "at least equal to" FSIS's regulatory requirements. There are 27 states, including Iowa, that have met this standard.

Fiscal Impact

Anticipated costs are one-time expenditures that include staff training and laboratory equipment purchases to meet federal standards. Federal grant funds are being utilized for equipment expenditures.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 30, 2019. Comments should be directed to:

Maison Bleam
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: maison.bleam@iowaagriculture.gov

Public Hearing

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

October 30, 2019
10 to 11 a.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend rule 21—76.2(189A) as follows:

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 332, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 431, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of July 30, 2018, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of July 30, 2018, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ITEM 2. Rescind rule 21—76.6(189A) and adopt the following **new** rule in lieu thereof:

21—76.6(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted and whenever an official mark is designated, the following official Iowa marks will be substituted:

1. Iowa inspected and condemned brand:

IOWA INSP'D AND
CONDEMNED

2. Iowa product label mark of inspection and carcass brand for amenable species:



AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

- 3. Exotic carcass brand:



- 4. Exotic product label mark of inspection:



5. Notwithstanding any other provision of this rule, a red meat establishment that is a selected establishment under 9 CFR Part 332 shall use the official marks, devices, and certificates in 9 CFR Part 312 for products that are intended for interstate commerce with the modifications described in 9 CFR Sec. 332.5(c).

- a. Cooperative Interstate Shipment program product label mark of inspection:



AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

b. Cooperative Interstate Shipment program carcass brand. Sizing of brands shall be as described in 9 CFR Sec. 312.2(a), except that the 1¼" brand shall be utilized in lieu of the ¾" brand:



6. Notwithstanding any other provision of this rule, a poultry establishment that is a selected establishment under 9 CFR Part 381, Subpart Z, shall use the official marks, devices, and certificates in 9 CFR Part 381, Subpart M, for products that are intended for interstate commerce with the modifications described in 9 CFR Sec. 381.515(c). Cooperative Interstate Shipment program poultry product label mark of inspection:



This rule is intended to implement Iowa Code section 189A.5(2).

ARC 4688C**ALCOHOLIC BEVERAGES DIVISION[185]****Notice of Intended Action****Proposing rule making related to alcoholic beverages trade practices and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 16, “Trade Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 123.45 and 123.186.

Purpose and Summary

This proposed rule making rescinds a rule that is obsolete due to enactment of 2019 Iowa Acts, House File 668. Previously, Iowa Code section 123.45(1) prohibited a person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages from having any interest, whether direct or indirect, in the ownership, conduct, or operation of another licensee or permittee authorized to sell at retail. Rule 185—16.41(123) elaborates upon possible scenarios that could constitute a prohibited interest. With the enactment of 2019 Iowa Acts, House File 668, Iowa Code section 123.45(1) now allows a person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages to have an interest in the ownership, conduct, or operation of another licensee or permittee authorized to sell at retail, provided that the licensee or permittee does not sell any alcoholic beverage products manufactured or sold by that industry member. Because of this allowance, rule 185—16.41(123) is no longer necessary.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Stephanie Strauss
Alcoholic Beverages Division
1918 S.E. Hulsizer Road
Ankeny, Iowa 50021
Email: strauss@iowaabd.com

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

Rescind and reserve rule **185—16.41(123)**.

ARC 4682C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to concurrent enrollment programs and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, chapter 164 [Senate File 603].

Purpose and Summary

These proposed amendments to Chapter 12 reflect legislative changes from the 2019 Legislative Session. Item 1 makes conforming modifications pursuant to 2019 Iowa Acts, chapter 164. Item 2 adds a new subrule to Chapter 12 to clarify the conditions under which a school district or accredited nonpublic school may use community college courses to meet offer-and-teach requirements. Item 2 also makes reference to new rule 281—97.8(261E) proposed in Notice of Intended Action **ARC 4686C** (IAB 10/9/19).

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

EDUCATION DEPARTMENT[281](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Nicole Proesch
 Department of Education
 Grimes State Office Building, Second Floor
 Des Moines, Iowa 50319-0146
 Phone: 515.281.8661
 Email: nicole.proesch@iowa.gov

Public Hearing

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

October 29, 2019
 9 to 10 a.m.

State Board Room, Second Floor
 Grimes State Office Building
 East 14th Street and Grand Avenue
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend subrule 12.5(16) as follows:

12.5(16) Subject offering. Except as provided for under subrule 12.5(21), a subject shall be regarded as offered when the teacher of the subject has met the licensure and endorsement standards of the state board of educational examiners for that subject; instructional materials and facilities for that subject have been provided; and students have been informed, based on their aptitudes, interests, and abilities, about possible value of the subject.

A subject shall be regarded as taught only when students are instructed in it in accordance with all applicable requirements outlined herein. Subjects which the law requires schools and school districts to offer and teach shall be made available during the school day as defined in subrules 12.1(8) to 12.1(10).

ITEM 2. Adopt the following **new** subrule 12.5(21):

12.5(21) Contracted courses used to meet school or school district requirements. A school or school district may use contracted community college courses meeting the requirements of rule 281—22.8(261E) under the following conditions.

a. A course or courses used to meet the sequential unit requirement for career and technical education under paragraph 12.5(5) “i.” One or more courses in only one of the six career and technical education service areas specified in paragraph 12.5(5) “i” may be eligible for supplementary weighting under the provisions of 281—subrule 97.2(5).

EDUCATION DEPARTMENT[281](cont'd)

b. A course or courses comprising up to a unit of science or mathematics in accordance with paragraph 12.5(5) “*c*” or “*d*.” Such courses may be eligible for supplementary weighting under the provisions of 281—subrule 97.2(5).

c. Courses offered pursuant to paragraph 12.5(21) “*a*” or “*b*” shall be deemed to have met the requirement that the school district offer and teach such a unit under the educational standards of this rule.

d. An accredited nonpublic school may use contracted community college courses to meet offer-and-teach requirements for career and technical education and math or science established under subrule 12.5(5). Such courses may be eligible for funding under rule 281—97.8(261E).

ARC 4683C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to senior year plus program
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 22, “Senior Year Plus Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, chapter 164 [Senate File 603], and 2016 Iowa Acts, chapter 1108 [House File 2392], section 61.

Purpose and Summary

The proposed amendments to Chapter 22 reflect legislative changes from the 2019 and 2016 Legislative Sessions. Items 1 to 4 and 7 conform the rules to 2019 Iowa Acts, chapter 164 [Senate File 603], allowing for direct contracts between an accredited nonpublic school and a community college to provide concurrent enrollment coursework. Item 6 contains a new cross reference to rule 281—97.8(261E), which is proposed in **ARC 4686C**, IAB 10/9/19.

Item 5 amends a definition and Item 6 adds a new definition to clarify part-time and full-time enrollment through concurrent enrollment and the postsecondary enrollment options program.

Item 8 reorganizes rule 281—22.17(261E) and adds a new subrule 22.17(3) to implement provisions of 2016 Iowa Acts, chapter 1108, section 61, that clarify when it is permissible for a school district to provide access to community college coursework through the postsecondary enrollment options program when the school district also has a contract in place to provide concurrent enrollment coursework.

Item 9 corrects a cross reference to a new rule in Chapter 46 (**ARC 4684C**, IAB 10/9/19).

Items 10 to 13 make clarifying changes to the project lead the way program in order to clearly signal the ways in which school districts and community colleges may offer project lead the way courses.

Item 14 designates a new division for the summer college credit program.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

EDUCATION DEPARTMENT[281](cont'd)

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Nicole Proesch
 Department of Education
 Grimes State Office Building, Second Floor
 Des Moines, Iowa 50319-0146
 Phone: 515.281.8661
 Email: nicole.proesch@iowa.gov

Public Hearing

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

October 29, 2019
 10 to 11 a.m.

State Board Room, Second Floor
 Grimes State Office Building
 East 14th Street and Grand Avenue
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend subrule 22.2(2) as follows:

22.2(2) *Requirements established by school district.*

a. The student shall have attained the approval of the school board or authorities in charge of an accredited nonpublic school, or its designee of the respective school governing body, and the eligible postsecondary institution to register for the postsecondary course.

b. No change.

ITEM 2. Amend subrule 22.3(1) as follows:

22.3(1) *Eligibility.* The teacher shall meet the standards and requirements set forth which other full-time instructors teaching within the academic department are required to meet and which are approved by the appropriate postsecondary administration. An individual under suspension or revocation of an educational license or statement of professional recognition issued by the board of educational examiners shall not be allowed to provide instruction for any program authorized by this chapter. If the instruction for any program authorized by this chapter is provided at a school district

EDUCATION DEPARTMENT[281](cont'd)

facility, accredited nonpublic school facility, or a neutral site, the teacher or instructor shall have successfully passed a background investigation conducted in accordance with Iowa Code section 272.2(17) prior to providing such instruction. The background investigation also applies to a teacher or instructor who is employed by an eligible postsecondary institution if the teacher or instructor provides instruction under this chapter at a school district facility, accredited nonpublic school facility, or a neutral site. For purposes of this rule, “neutral site” means a facility that is not owned or operated by an institution.

ITEM 3. Amend paragraph **22.3(2)“b”** as follows:

b. As assisted by the school district or accredited nonpublic school, provide ongoing communication about course expectations, teaching strategies, performance measures, resource materials used in the course, and academic progress to the student and, in the case of students of minor age, to the parent or guardian of the student;

ITEM 4. Amend subrule 22.4(2) as follows:

22.4(2) Requirements of school district or accredited nonpublic school only.

a. ~~The~~ Except as provided under Iowa Code section 257.11(3)“c,” and sections 279.50A and 261E.8(2)“b” as enacted by 2019 Iowa Acts, chapter 164, the school district or accredited nonpublic school shall certify annually to the department, as an assurance in the district’s or nonpublic school’s basic education data survey, that the course provided to a high school student for postsecondary credit in accordance with this chapter supplements, and does not supplant, a course provided by the school district or accredited nonpublic school in which the student is enrolled. For purposes of these rules, to comply with the “supplement, not supplant” requirement, the content of a course provided to a high school student for postsecondary credit shall not consist of substantially the same concepts and skills as the content of a course provided by the school district or accredited nonpublic school.

b. The school district or accredited nonpublic school shall ensure that the background investigation requirement of subrule 22.3(1) is satisfied. The school district or accredited nonpublic school shall pay for the background investigation but may charge the teacher or instructor a fee not to exceed the actual cost charged the school district or accredited nonpublic school for the background investigation conducted. If the teacher or instructor is employed by an eligible postsecondary institution, the school district or accredited nonpublic school shall pay for the background investigation but may request reimbursement of the actual cost to the eligible postsecondary institution.

ITEM 5. Amend rule **281—22.6(261E)**, definitions of “Concurrent enrollment,” “Full time,” “Institution” and “Student,” as follows:

“*Concurrent enrollment*” means any course offered to students in grades 9 through 12 during the regular school year approved by the board of directors of a school district or authorities in charge of an accredited nonpublic school through a contractual agreement between a community college and the school district ~~that meets~~ or authorities in charge of an accredited nonpublic school. The course shall meet the provisions of Iowa Code section 257.11(3).

“*Full time*” means enrollment at any one eligible postsecondary institution through a school district or accredited nonpublic school in any one academic year, exclusive of any summer term, of in 24 or more postsecondary credit hours. Enrollment in a course or courses that result in credit hours in excess of the part-time limit shall be subject to applicable provisions of this chapter including Division IV or Division V, except that the cost of enrollment shall be the responsibility of the student, or parent or legal guardian of the student.

“*Institution*” means a school district, accredited nonpublic school, or eligible postsecondary institution delivering the instruction in a given program as authorized by this chapter.

“*Student*” means any individual in grades 9 through 12 enrolled or dually enrolled in a school district, or any individual in grades 9 through 12 enrolled in an accredited nonpublic school, who meets the criteria in rule 281—22.2(261E). For purposes of Division III (Advanced Placement Program) and Division V (Postsecondary Enrollment Options Program) only, “student” also includes a student enrolled in an accredited nonpublic school or the Iowa School for the Deaf or the Iowa Braille and Sight Saving School.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 6. Adopt the following **new** definition of “Part time” in rule **281—22.6(261E)**:

“Part time” means enrollment at any one eligible postsecondary institution under Division IV or Division V in no more than 23 postsecondary credit hours per academic year, exclusive of any summer terms.

ITEM 7. Adopt the following **new** rule 281—22.13(261E):

281—22.13(261E) Accredited nonpublic school concurrent enrollment option.

22.13(1) Authorization. In addition to enrollment through a school district as authorized under subrule 22.11(2), students enrolled at an accredited nonpublic school may access concurrent enrollment coursework through a direct contract between the authorities in charge of an accredited nonpublic school and a community college.

22.13(2) General requirements. For any coursework delivered through a contract established pursuant to this rule, students, institutions, and instructors shall meet the requirements for concurrent enrollment established under rule 281—22.11(216E). However, such coursework is not eligible for funding under subrule 22.11(6).

22.13(3) Funding. Subject to the appropriation of funds by the Iowa legislature for such purposes, coursework delivered through a contract between the authorities in charge of an accredited nonpublic school and a community college pursuant to this rule may be eligible for funding under 281—rule 97.8(261E).

22.13(4) Data collection. Institutions participating in a contract pursuant to this rule shall comply with data reporting and verification processes established by the department.

ITEM 8. Amend rule 281—22.17(261E) as follows:

281—22.17(261E) Eligible postsecondary courses. These rules are intended to implement the policy of the state to promote rigorous academic pursuits. ~~Therefore, postsecondary~~

22.17(1) Postsecondary courses eligible for students to enroll in under this division shall be limited to: ~~nonsectarian~~

a. ~~Nonsectarian~~ courses; ~~courses~~

b. Courses that are not comparable to courses offered by the school district where the student attends which are defined in rules adopted by the board of directors of the public school district; ~~credit-bearing~~

c. ~~Credit-bearing~~ courses that lead to an educational degree; ~~courses~~

d. Courses in the discipline areas of mathematics, science, social sciences, humanities, and vocational-technical education; and also the courses in career option programs offered by area schools established under the authorization provided in Iowa Code chapter 260C.

22.17(2) A school district or accredited nonpublic school district shall grant academic or vocational-technical credit to an eligible student enrolled in an eligible postsecondary course.

22.17(3) A course is ineligible for purposes of this rule if the school district has a contractual agreement with the eligible postsecondary institution under Iowa Code section 261E.8 that meets the requirements of Iowa Code section 257.11(3) and if the course may be delivered through such an agreement in accordance with Iowa Code section 257.11(3).

ITEM 9. Amend rule 281—22.24(261E) as follows:

281—22.24(261E) Career academies. A career academy is a program of study as defined in 281—Chapter 47 46. A course offered by a career academy shall not qualify as a regional academy course.

22.24(1) to 22.24(3) No change.

ITEM 10. Adopt the following **new** paragraph **22.32(5)“c”**:

c. The teacher shall participate, on a regular basis, in available professional development provided by the national organization that administers the project lead the way program.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 11. Amend subrule 22.32(6) as follows:

22.32(6) Accreditation standards.

a. A project lead the way course may apply toward high school program accreditation standards pursuant to 281—subrule 12.5(5). To meet the requirement, the instructor must be appropriately licensed and endorsed by the board of educational examiners to teach the subject area of the accreditation standard.

b. If the project lead the way course being taught is within a career and technical education program or is one in a sequence of project lead the way courses which collectively are used to meet one of the career and technical education sequential unit requirements of 281—Chapter 12, the program must be approved by the department pursuant to 281—Chapter 46.

ITEM 12. Amend subrule 22.32(7) as follows:

22.32(7) Shared-district-to-community-college courses Collaborative project lead the way courses.

a. ~~A district-to-community-college sharing collaborative~~ program for project lead the way courses is established to be administered by the department to promote rigorous science, technology, engineering, and mathematics pursuits ~~at or through~~ in partnership with a community colleges college established under Iowa Code chapter 260C. The program shall be made available to all resident students in grades 9 through 12.

b. to e. No change.

~~*f.* A student may make application to a community college and the school district to allow the student to enroll for college credit in a project lead the way course offered by the community college.~~

~~*g. f.* A district-to-community college sharing program for project lead the way courses that meets the requirements of 281—subrule 97.2(6) is eligible for funding under that provision for shared college credit collaborative project lead the way career and technical education courses.~~

ITEM 13. Amend paragraph **22.32(8)“c”** as follows:

c. The school district may offer a project lead the way course as an articulated course. Articulated courses shall be offered through an agreement between the district and postsecondary institution which allows students to receive college credit at the postsecondary institution upon matriculation based on the demonstrated mastery of concepts in the high school course. An articulated course shall not be delivered by a postsecondary institution ~~or through a sharing agreement with a community college and shall not generate supplementary weighting.~~

ITEM 14. Adopt the following **new 281—Chapter 22**, Division X title, to precede rule 281—22.33(261E):

DIVISION X
SUMMER COLLEGE CREDIT PROGRAM

ARC 4684C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rule making related to career academy incentive fund
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 46, “Career and Technical Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, chapter 166 [House File 546].

EDUCATION DEPARTMENT[281](cont'd)

Purpose and Summary

This rule making proposes to add a new rule 281—46.13(423F) to Chapter 46. The new rule establishes a policy framework for the career academy incentive fund, established through the reauthorization of the secure an advanced vision for education fund, 2019 Iowa Acts, chapter 166. The fund is intended to support the development of career academy programs, in particular, career academy programs delivered through regional centers (centralized facility through which multiple school districts and a community college deliver instruction to students). New rule 281—46.13(423F) establishes for the career academy incentive fund eligible applicants, an application process, evaluation criteria, and an awarding mechanism, as well as clarifies allowable uses of funds.

As used in the new rule, a career academy is a career-oriented or occupation-oriented program of study, the same as defined in rule 281—46.11(258). A regional center is a facility for the delivery of career and technical education programming, providing access to at least four career academy programs and serving either a combined minimum of 120 students from no fewer than two school districts or a minimum of four school districts, the same as defined in rule 281—46.12(258).

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Nicole Proesch
 Department of Education
 Grimes State Office Building, Second Floor
 Des Moines, Iowa 50319-0146
 Phone: 515.281.8661
 Email: nicole.proesch@iowa.gov

Public Hearing

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

October 29, 2019
 11 a.m. to 12 noon

State Board Room, Second Floor
 Grimes State Office Building
 East 14th Street and Grand Avenue
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

EDUCATION DEPARTMENT[281](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

Adopt the following **new** rule 281—46.13(423F):

281—46.13(423F) Career academy incentive fund. A career academy incentive fund is a competitive grant program established by the department to expand opportunities for students to access high-quality career and technical education programming through innovative partnerships between school districts and community colleges.

46.13(1) Allowable expenses. Funding issued under this rule shall be used by the recipient for purposes outlined in the proposal approved by the department to support the development of career academy infrastructure, including regional centers as defined under rule 281—46.12(258). For purposes of this rule, allowable expenses include the following:

- a. Purchase and improvement of grounds, including the legal costs relating to the property acquisition and surveys of the property.
- b. Construction of buildings and roads to buildings.
- c. Purchase or lease-purchase option agreements for buildings.
- d. Rental of facilities under Iowa Code chapter 28E.
- e. Purchase, lease, or lease-purchase of equipment or technology exceeding \$500 in value per purchase or lease-purchase transaction. "Equipment" means both equipment and furnishings.
- f. Repair, remodel, reconstruction, improvement, or expansion of buildings and the additions to existing buildings.

46.13(2) Applicants. Institutions eligible to apply for funds include a school district as defined under rule 281—12.2(256) or community college as defined under Iowa Code chapter 260C.

46.13(3) Application proposals. Institutions seeking funds under this rule shall submit an application proposal to the department in a format prescribed by the department. An application for funding that includes more than one institution shall designate a single institution to receive funds on behalf of all participating institutions. At a minimum, all applications shall include one school district and one community college, though applications consisting of multiple school districts and a community college are encouraged.

a. *Service area and aligned occupation.* Program information will be collected to identify the aligned service area and in-demand occupation as identified by the state workforce development board pursuant to Iowa Code section 84A.1B(13A) as enacted by 2018 Iowa Acts, chapter 1067, section 7.

b. *Offerings and enrollments.* Information shall be provided on all career academy offerings made available by the participating institutions. All school districts shall provide actual or estimated enrollment by high school in each of the offered career academies over the proceeding five-year period.

c. *Program structure.* Each proposal shall include a response to the following components:

(1) A sequence of coursework, inclusive of all aligned middle school, high school, and postsecondary offerings that constitute the career academy. The sequence of coursework shall be developed collaboratively between the school district or school districts and community college, and shall be depicted in a template provided by the department.

(2) A description and evidence of integrated project-, problem-, and work-based learning experiences.

(3) Identification of the third-party industry certifications either made available to the student through the program or which the program prepares the student to complete.

EDUCATION DEPARTMENT[281](cont'd)

d. Partnerships. If applicable, the applicant shall provide information on all partnering institutions, and the extent to which each partnering institution is contributing resources to the initiative, including but not limited to funds, staff, equipment, or other related resources.

e. Business and industry involvement. If applicable, the applicant shall provide information on business and industry involvement, including but not limited to input solicited on offerings, donation of equipment, and contribution of funds.

f. Approved contracts. Each district participating in the career academy shall submit as evidence the contract established pursuant to subrule 46.11(2).

46.13(4) Criteria for evaluating proposals.

a. Priority. Application proposals shall be ranked and sorted according to the following priorities:

(1) First priority. Proposals for new career academies delivered collaboratively between multiple school districts and a community college through a regional center as defined under rule 281—46.12(258) shall receive priority consideration.

(2) Second priority. Proposals for existing career academies delivered collaboratively between multiple school districts and a community college through a regional center as defined under rule 281—46.12(258) shall receive second-priority consideration.

(3) Third priority. Proposals for new or existing career academies delivered through partnership arrangements other than a regional center, including but not limited to individual career academy offerings delivered by one school district, shall receive third-priority consideration.

b. Occupational alignment. Proposals for career academies aligned with high-demand occupations as identified by the state workforce development board pursuant to Iowa Code section 84A.1B(13A) as enacted by 2018 Iowa Acts, chapter 1067, section 7, shall be given preferential consideration.

c. Improving access. Proposals for career academies that demonstrate that the grant funds will result in improved access to career and technical education programs for all students enrolled in participating school districts, including underrepresented and nontraditional students, as well as underserved geographical areas, shall be given preferential consideration.

d. Program structure. The proposals shall be evaluated to determine the extent to which the components of paragraph 46.13(3)“c” are evident in the career academy program.

e. Additional criteria. Subject to paragraphs 46.13(4)“a” and “b,” proposals shall be evaluated against additional criteria including, but not limited to, the following:

(1) Actual or projected enrollment for each participating high school over a five-year period is of sufficient size to support robust and sustainable offerings and justify the request for funding.

(2) Cumulative offerings provide students with access to a diverse array of coursework in multiple career and technical education service areas.

(3) If programming is delivered at an off-site location, the sending school district provides transportation to participating students.

f. Budget. Institutions shall submit a complete budget for the proposal, including a comprehensive summary of costs and a complete list of funding sources to be put toward implementing and sustaining the initiative.

g. Regional center plan. Evidence shall be provided to the department that the regional planning partnership established under this chapter and in which the applicants are participating members has developed a plan for regional centers as required under paragraph 46.10(4)“h.” The plan shall identify any underserved areas of the region, including areas of low career and technical education enrollment and program offerings.

46.13(5) Awarding grants. The department may fully or partially award funds for proposals submitted pursuant to subrule 46.13(3).

a. The department will award funds for first-priority proposals that meet the criteria established in rank order. The department may award funds for second- and third-priority proposals based on availability of funds.

b. A grant award issued under this rule shall not exceed \$1 million. A first-priority proposal selected for funding shall receive an award of no less than \$1 million. A second-priority proposal selected

EDUCATION DEPARTMENT[281](cont'd)

for funding shall receive an award of no less than \$250,000. A third-priority proposal selected for funding shall receive an award of no more than \$250,000.

46.13(6) Distribution of awarded grants. The department will award funds to the designated fiscal agent for approved proposals upon receipt of evidence that the initiative has been completed. Initiatives approved for funding under this rule must be completed within three years of approval, unless a waiver issued at the discretion of the director grants the recipient additional time to complete the approved proposal. Unclaimed funds will be used by the department to fund future initiatives under this rule.

ARC 4685C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to statewide sales and services tax for school infrastructure and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 96, “Statewide/Local Option Sales and Services Tax for School Infrastructure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 423E and 423F and 2019 Iowa Acts, chapter 166 [House File 546].

Purpose and Summary

Chapter 96 addresses the requirement for smaller districts to provide a certificate of need to expend funds received from the statewide sales and service tax for infrastructure (secure an advanced vision for education [SAVE]) fund. The proposed amendments to Chapter 96 remove references to the former local option sales and services tax for school infrastructure, which was ended effective July 1, 2008, and reflect legislative changes brought about during the 2019 Legislative Session. A more detailed explanation of these amendments follows:

Items 1, 2, and 4 remove references to the former local option sales and services tax and definitions that were specifically related to this tax.

Item 3 implements 2019 Iowa Acts, chapter 166, which adds requirements pertaining to the request for a certificate of need, which is required for smaller districts to expend funds received from the SAVE fund. This item also includes an updated Iowa Code citation and changes references from the former budget guarantee to the budget adjustment under Iowa Code section 257.14.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

EDUCATION DEPARTMENT[281](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Nicole Proesch
 Department of Education
 Grimes State Office Building, Second Floor
 Des Moines, Iowa 50319-0146
 Phone: 515.281.8661
 Email: nicole.proesch@iowa.gov

Public Hearing

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

October 29, 2019
 1 to 2 p.m.

State Board Room, Second Floor
 Grimes State Office Building
 East 14th Street and Grand Avenue
 Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend **281—Chapter 96**, title, as follows:

~~STATEWIDE/LOCAL OPTION STATEWIDE SALES AND SERVICES TAX FOR SCHOOL INFRASTRUCTURE~~

ITEM 2. Amend rule 281—96.1(423E,423F) as follows:

281—96.1(423E,423F) Definitions. For purposes of these rules, the following definitions shall apply:

“*Actual enrollment*” means the number of students each school district certifies to the department by October 15 of each year in accordance with Iowa Code section ~~257.6, subsection 1~~ [257.6\(1\)](#).

“*Base year*” means the school year ending during the calendar year in which the budget is certified.

“*Certificate of need*” means the written department of education approval a school district must obtain if the district has a certified enrollment of fewer than 250 students or a certified enrollment of fewer than 100 students in grades ~~9-12~~ [9 through 12](#). The certificate of need must be obtained by the school district before the district may expend the supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount or to expend the statewide sales and services amount ~~or remaining unobligated local option sales and services balances~~ for new construction.

EDUCATION DEPARTMENT[281](cont'd)

“*Combined actual enrollment*” means the sum of the students in each school district located in whole or in part in a county who are residents of that county as determined by rule 281—96.2(423E,423F).

“*Department*” means the state department of education.

“*Guaranteed school infrastructure amount*” means for a school district the statewide tax revenues per student, multiplied by the quotient of the tax rate percent imposed in the county, divided by 1 percent and multiplied by the quotient of the number of quarters the tax is imposed during the fiscal year divided by four quarters.

“*New construction*” means any erection of a facility or any modification or addition to a facility except for repairing existing schoolhouses or school buildings or for construction necessary for compliance with the federal Americans with Disabilities Act, pursuant to 42 U.S.C. Section 12101-12117 Sections 12101 to 12117.

“*Nonresident student*” means a student enrolled in a school district who does not meet the requirements of a resident as defined in Iowa Code section 282.1.

“*Reconstruction*” means rebuilding or restoring as an entity a thing that was lost or destroyed.

“*Repair*” means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance.

“*Resident student*” means a student enrolled in a school district who meets the requirements of a resident as defined in Iowa Code section 282.1.

“*Revenue purpose statement*” means a document prepared by the school district indicating the specific purpose or purposes for which the funding, pursuant to Iowa Code chapters 423E and 423F, will be expended.

“*Sales tax*” means ~~a local option sales and services tax for school infrastructure imposed in accordance with Iowa Code chapter 423E and the statewide sales and services tax for school infrastructure imposed in accordance with Iowa Code chapter 423F.~~

~~“*Sales tax capacity per student*” means for a school district the estimated amount of revenues that a school district receives or would receive if a local sales and services tax for school infrastructure purposes is imposed at 1 percent in the county, divided by the school district’s actual enrollment.~~

“*School budget review committee*” or “*SBRC*” means a committee that is established under Iowa Code section 257.30 in the department of education and that consists of the director of the department of education in an ex officio, nonvoting capacity, the director of the department of management, and ~~three~~ four members who are knowledgeable in the areas of Iowa school finance or public finance issues and who are appointed by the governor to represent the public.

“*School district*” means a public school district in Iowa accredited by the state department of education.

“*School infrastructure*” means those activities for which a school district is authorized to contract indebtedness and issue general obligation bonds under Iowa Code section 296.1, except those activities related to a teacher’s or superintendent’s home or homes. These activities include the construction, reconstruction, repair, demolition, purchase, or remodeling of schoolhouses, stadiums, gymnasiums, fieldhouses, and bus garages; the procurement of schoolhouse sites and site improvements; and the payment or retirement of general obligation bonds issued for school infrastructure purposes or of sales and services tax for school infrastructure revenue bonds. Additionally, school infrastructure includes school safety and security infrastructure under Iowa Code section 423F.3(6) as amended by 2019 Iowa Acts, chapter 166, section 15. The definition of school infrastructure also includes activities for which revenues under Iowa Code sections 298.3 and 300.2 may be spent and property tax relief for the debt service property tax levy, regular physical plant and equipment property tax levy, voter-approved physical plant and equipment income surtax and property tax levy, and the public education and recreation property tax levy.

“*Site improvement*” means grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks

EDUCATION DEPARTMENT[281](cont'd)

which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements defined in Iowa Code section 384.37.

“Statewide tax revenues per student” means the amount per student established by Iowa Code ~~subsection~~ section 423E.4(2) “b”(3).

“Supplemental school infrastructure amount” means the ~~guaranteed school infrastructure amount for the school district less the pro rata share of local sales and services tax for school infrastructure purposes.~~

ITEM 3. Amend rules 281—96.4(423E,423F) and 281—96.5(423E,423F) as follows:

281—96.4(423E,423F) Application and certificate of need process.

96.4(1) *When application needed; application period.* ~~After July 1, 2008, a~~ A school district with a certified enrollment of fewer than 250 students in the entire district or a certified enrollment of fewer than 100 students in grades 9 through 12 shall not expend the amount of statewide ~~or local sales and services tax~~ received for new construction without prior application to the department and receipt of a certificate of need. A certificate of need is not required for repair of school facilities; for purchase of equipment, technology, or transportation equipment for transporting students as provided in Iowa Code section 298.3; school safety and security infrastructure as provided in Iowa Code section 423F.3(6) as amended by 2019 Iowa Acts, chapter 166, section 15, other than new construction; or for construction necessary to comply with the federal Americans With Disabilities Act, 42 U.S.C. Sections 12101 to 12117. Applications shall be hand-delivered or postmarked no later than eight weeks prior to a regularly scheduled meeting of the SBRC. Delivery of applications by way of facsimile transmission is not allowed. The SBRC holds regularly scheduled meetings ~~on the second Monday of September, December, March, and May as stipulated in rule 289—1.4(257).~~

96.4(2) *Application form.* The department shall ~~make~~ make available an application form to Iowa public school districts. Each applicant school district shall use the form prepared for this purpose and in the manner prescribed by the department. A school district may submit only one application during the application period. The application form shall include, but shall not be limited to, the following information:

- a. and b. No change.
- c. The description of need including ~~documentation of the infeasibility~~ a cost-benefit analysis of remodeling, reconstructing, or repairing the existing structure rather than implementing this project and a description of any alternatives considered and the reasons for rejection.
- d. No change.
- e. If a school district’s enrollment in the current year or any of the five years of projected enrollments is fewer than 250 students, the school district shall attach a copy of a feasibility study pursuant to Iowa Code ~~subsection 256.9(34)~~ section 256.9(30) or similar study conducted within the past three years with an explanation of how the study supports the project that is the subject of the application.
- f. A description of the ~~nature~~ benefits and effects of the project and its relationship to improving ~~educational opportunities for students~~ student learning including alignment with school district student achievement goals and including the school district’s ability to meet or exceed the educational standards. A school district shall provide:
 - (1) A list of waivers applied for and granted to the school district or any deficiencies from educational standards if no waiver was granted.
 - (2) A list of courses offered by major curricular area in grades 9 through 12. The list shall include five years of history and three years of projected curricula if the proposed new construction will house any of the grades 9 through 12.
 - (3) A list of current and projected staffing patterns including assignments and licensure.
- g. No change.
- h. Evidence of a healthy financial condition and long-term financial stability. The school district shall provide:

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(1) Calculation of unspent balance on the generally accepted accounting principles (GAAP) basis. The calculation shall include five years of history and three years of projected balances. The calculation of budget authority shall show and project the effect of the ~~phaseout of the budget guarantee adjustment~~ adjustment under Iowa Code section 257.14. Projected allowable growth shall be that known or generally anticipated at the time of the application. If the percent of allowable growth is not known or anticipated, an allowable growth of no more than 2 percent shall be utilized in the annual projections.

(2) If the unspent balance is negative in any current or projected year on the GAAP basis, the school district shall include a copy of the corrective action plan, if any, submitted to the SBRC.

(3) Calculation of fund balance on the GAAP basis by fund. The calculation shall include five years of history and three years of projected balances.

i. If a school district currently has bonded indebtedness, the voter-approved physical plant and equipment levy, or categorical funding for school infrastructure, the school district shall include a statement identifying the implementation date, final year of the bonded indebtedness or the final year of the levy or categorical funding, and the levy rate. The school district shall list any obligations against those current balances and future revenues or against the ~~local option~~ or statewide sales and services tax for school infrastructure amounts. The school district shall attach a copy of the school district's revenue purpose statement, if any.

j. to l. No change.

96.4(3) to 96.4(7) No change.

281—96.5(423E,423F) Review process.

96.5(1) Task force. The department shall form a task force to review applications for certificate of need and to provide recommendations to the SBRC. The department shall invite participants from large, medium, and small school districts, the state fire marshal's office, education and professional organizations, or other individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, shall establish the parameters and criteria for awarding certificates of need based on information listed in Iowa Code section 423E.4, ~~subsection 5~~ 423E.4(5), which includes required consideration of the following:

- a.* Enrollment trends in the grades that will be served at the new construction site.
- b.* The ~~infeasibility~~ cost-benefit analysis of remodeling, reconstructing, or repairing existing buildings.
- c.* The fire and health safety needs of the school district.
- d.* The distance, convenience, cost of transportation, and accessibility of the new construction site to the students to be served at the new construction site.
- e.* Unavailability of alternative, less costly, or more effective means of serving the needs of the students.
- f.* The financial condition of the school district, including the effect of the ~~decline of the budget guarantee adjustment~~ adjustment and unspent balance.
- g.* Broad and long-term ability of the school district to support the facility and the quality of the academic program.
- h.* Cooperation with other educational entities including other school districts, area education agencies, postsecondary institutions, and local communities.

96.5(2) and 96.5(3) No change.

96.5(4) Ineligibility for approval. If either of the following two descriptions applies to the school district, the school district shall not be eligible for a certificate of need unless a feasibility study conducted within the past three years pursuant to Iowa Code ~~subsection 256.9(34)~~ section 256.9(30) and the AEA plan pursuant to Iowa Code sections 275.1 to 275.4 determine that sharing, reorganization, or dissolution is not feasible for the school district.

a. ~~If either the~~ The current enrollment or any of the five years of projected enrollments for the school district is fewer than 250 students.

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b. ~~If either the~~ The current enrollment or any of the five years of projected enrollments for the school district for grades 9 through 12 is fewer than a total of 100 students, if a high school building is the subject of the application.

96.5(5) School budget review committee. The SBRC shall review the recommendations from the task force for approval of certificates of need. The committee shall make recommendations on approval to the department for final consideration.

ITEM 4. Amend subrule 96.7(2) as follows:

96.7(2) Accounting for the funding. All revenues ~~from the local and statewide school infrastructure amounts~~ and all expenditures from the ~~local and statewide school infrastructure amounts~~ shall be separately identified and accounted for in a capital projects fund established for the ~~local option and statewide sales and services tax for school infrastructure proceeds.~~

ARC 4686C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rule making related to supplementary weighting
and providing an opportunity for public comment**

The State Board of Education Department hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, chapter 101 [House File 596], and 2019 Iowa Acts, chapter 164 [Senate File 603].

Purpose and Summary

Chapter 97 outlines supplementary weighting. The proposed amendments to Chapter 97 reflect legislative changes to supplementary weighting brought about during the 2019 Legislative Session. A more detailed explanation of the proposed amendments follows:

Item 1 adds accredited nonpublic schools to the definition of “supplant,” which applies to concurrent enrollment coursework, and clarifies that supplementary weighting applies only to Iowa resident students.

Item 2 implements changes to eligibility for supplementary weighting pertaining to public school students attending community college-offered coursework resulting from 2019 Iowa Acts, chapter 164. The changes include eligibility for districts with basic educational data survey (BEDS) enrollment of less than 600 that have entered into a sharing agreement with a community college to provide one unit of coursework in science or one unit of coursework in mathematics that is used to meet accreditation standards to request supplemental weighting for that unit, provided certain conditions are met.

Item 3 implements changes to the time period for district eligibility for whole-grade sharing supplementary weighting resulting from 2019 Iowa Acts, chapter 101. This item also includes proposed changes to the items required by the Department of Education for the report of progress that districts are required to submit when requesting the second or third year of whole-grade sharing supplementary weighting. Additionally, the proposed amendment adds a process to follow in the event an election on reorganization fails to pass after the school budget review committee (SBRC) has approved a district’s application for whole-grade sharing supplementary weighting.

Item 4 implements changes resulting from 2019 Iowa Acts, chapter 164, that create a weighting for accredited nonpublic schools that access concurrent enrollment coursework through an agreement

EDUCATION DEPARTMENT[281](cont'd)

directly with a community college. This weighting is used to generate payment to a community college subject to an appropriation to the Department of Education for this purpose.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Nicole Proesch
Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: nicole.proesch@iowa.gov

Public Hearing

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

October 29, 2019
2 to 3 p.m.

State Board Room, Second Floor
Grimes State Office Building
East 14th Street and Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend rule **281—97.1(257)**, definitions of “Supplant” and “Supplementary weighting plan,” as follows:

“*Supplant*” shall mean the community college’s offering a course that consists of substantially the same concepts and skills as the content of a course provided by the school district or accredited nonpublic

EDUCATION DEPARTMENT[281](cont'd)

school or the community college's offering a course that is required by the school district or accredited nonpublic school in order to meet the minimum accreditation standards in Iowa Code section 256.11. If a student is unable to earn credit in both courses, then the two courses would be deemed similar enough in content and skills to be defined as supplanting.

"*Supplementary weighting plan*" shall mean a plan as defined in this chapter to add a weighting for each eligible Iowa resident student ~~eligible~~ who is enrolled in an eligible class taught by a teacher employed by another school district or taught by a teacher employed jointly with another school district or sent to and enrolled in an eligible class in another school district or sent to and enrolled in an eligible community college class. The supplementary weighting for each eligible class shall be calculated by multiplying the fraction of a school year that class represents by the number of eligible Iowa resident students enrolled in that class and then multiplying that figure by the weighting factor established in Iowa Code chapter 257.

ITEM 2. Amend subrule 97.2(5) as follows:

97.2(5) *Attend class in a community college.* All of the following conditions must be met for any Iowa resident public school student attending a community college-offered class to be eligible for supplementary weighting under paragraph 97.2(1) "d."

a. The course must supplement, not supplant, high school courses.

(1) For purposes of these rules, to comply with the "supplement, not supplant" requirement, the content of a course provided to a high school student for postsecondary credit shall not consist of substantially the same concepts and skills as the content of a course provided by the school district.

(2) The course must not be used by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11(5) "a" to "j," ~~with an exception to the career and technical limitation applicable to Iowa Code section 256.11(5) "h."~~ 256.11(5) "b," "c," "f," "g," "i," and "j."

(3) A school district with total basic educational data survey enrollment of not more than 600 that contracts with a community college to provide one unit of science required in Iowa Code section 256.11(5) "a" or one unit of mathematics required in Iowa Code section 256.11(5) "d" or "e" and any of the three required sequential units in any one of the four career and technical education service areas identified as the district's career and technical program required in Iowa Code section 256.11(5) "h" may request supplementary weighting for any community college course within one of the four service these subject areas if the district's enrollment in the course enrollment or courses comprising the unit exceeds five. Additionally, for the science or mathematics unit, the following conditions must be met:

1. The school district has made every reasonable and good faith effort, as defined in Iowa Code section 279.19A(9), to employ a teacher licensed under Iowa Code chapter 272 for the unit of science or mathematics and is unable to employ such a teacher.

2. The course or courses comprising the one unit are offered during the regular school day.

3. The course or courses comprising the one unit are made accessible to all eligible pupils by the school district.

b. to h. No change.

ITEM 3. Amend rule 281—97.5(257) as follows:

281—97.5(257) Supplementary weighting plan for whole-grade sharing.

97.5(1) *Whole-grade sharing.* A school district which participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and which has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, ~~2019~~ 2024, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to ~~subrule 97.2(1)~~, paragraph 97.2(1) "a," "b," or "c." A school district participating in a whole-grade sharing arrangement shall be eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year shall be conditioned upon submission of information resulting from the study to the school budget

EDUCATION DEPARTMENT[281](cont'd)

review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, 2019 2024.

97.5(2) No change.

97.5(3) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2018 2023.

97.5(4) and **97.5(5)** No change.

97.5(6) *Filing progress reports.* Each school district ~~that assigned a supplementary weighting to resident students attending class in a whole-grade sharing arrangement and that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in the any year following the initial year for which supplementary weighting for whole-grade sharing was approved~~ shall file a report of progress toward reorganization with the school budget review committee, on forms developed by the department of education, no later than August 1 preceding October 1 on which date the district intends to request the second or third year of supplementary weighting for whole-grade sharing.

a. The progress report shall include, ~~but not be limited to,~~ the following information:

- (1) Names of districts with which the district is studying reorganization.
- (2) Descriptive information on the whole-grade sharing arrangement.
- (3) ~~If the district is studying dissolution, information on whether public hearings have been held, a proposal has been adopted, and an election date has been set.~~
- (4) (3) ~~If the district is studying reorganization, information~~ Information on whether public hearings have been held, a plan for reorganization has been approved by the AEA, and an election date has been set.

(5) ~~Description of joint activities of the boards such as planning retreats and community meetings.~~

(6) ~~Information showing an increase in sharing activities with the whole-grade sharing partners such as curriculum offerings, program administration, personnel, and facilities.~~

b. The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, 2019 2024. Indicators The indicators of progress may include, ~~but are not limited to:~~

(1) ~~Establishing substantially similar salary schedules or a plan by which the sharing districts will be able to develop a single salary schedule upon reorganization. For the second year of supplementary weighting, establishing a reorganization committee.~~

(2) ~~Establishing a joint teacher evaluation process and instruments. For the third year of supplementary weighting, having an AEA-approved plan for reorganization and a date set for an election on the proposed reorganization.~~

(3) ~~Developing a substantially similar continuous school improvement plan (CSIP) with aligned goals including a district professional development plan.~~

(4) ~~Increasing the number of grades involved in the whole-grade sharing arrangement.~~

(5) ~~Increasing the number of shared teaching or educator positions.~~

(6) ~~Increasing the number or extent of operational sharing arrangements.~~

(7) ~~Increasing the number of shared programs such as career, at risk, gifted and talented, curricular, or co-curricular.~~

(8) ~~Increasing the number of joint board meetings or planning retreats.~~

(9) ~~Holding regular or frequent public meetings to inform the public of progress toward reorganization and to receive comments from the public regarding the proposed reorganization.~~

(10) ~~Adopting a reorganization or dissolution proposal.~~

(11) ~~Setting proposed boundaries.~~

(12) ~~Setting a date for an election on the reorganization or dissolution proposal.~~

c. The school budget review committee shall consider each progress report at its first regular meeting of the fiscal year and shall accept the progress report or shall reject the progress report

EDUCATION DEPARTMENT[281](cont'd)

with comments. The reports will be evaluated on demonstrated progress within the past year toward reorganization or dissolution.

d. A school district whose progress report is not accepted shall be allowed to submit a revised progress report at the second regular meeting of the school budget review committee. The committee shall accept or reject the revised progress report.

e. If the school budget review committee rejects the progress report and the district does not submit a revised progress report or if the school budget review committee rejects the revised progress report, the school district shall not be eligible for supplementary weighting for whole-grade sharing but may reapply in a subsequent year.

f. In the event that an election on reorganization fails to pass after the school budget review committee has approved a district's application for whole-grade sharing supplementary weighting and prior to January 1 of the year in which the reorganization was to take effect, a district may rescind the request for whole-grade sharing supplementary weighting by submitting a request to the school budget review committee asking to withdraw the application. The request to withdraw the application must be completed no later than one week prior to the committee's second regular meeting.

ITEM 4. Adopt the following **new** rule 281—97.8(261E):

281—97.8(261E) Concurrent enrollment program contracts between accredited nonpublic schools and community colleges. For the purpose of determining funding to the community college, subject to an appropriation to the department for this purpose, a student enrolled in a unit of concurrent enrollment coursework offered through a contract by an accredited nonpublic school with an Iowa community college pursuant to Iowa Code section 261E.8(2) as amended by 2019 Iowa Acts, chapter 164, shall be counted as if the student were assigned a weighting as described in subrule 97.2(5).

97.8(1) Eligibility. All of the following conditions must be met for any Iowa resident accredited nonpublic school student attending a community college-offered course offered through a contract with an accredited nonpublic school to be eligible for funding under Iowa Code section 261E.8(2) as amended by 2019 Iowa Acts, chapter 164.

a. The course must supplement, not supplant, high school courses.

(1) For purposes of these rules, to comply with the “supplement, not supplant” requirement, the content of a course provided to a high school student for postsecondary credit shall not consist of substantially the same concepts and skills as the content of a course provided by the accredited nonpublic school.

(2) The course must not be used by the accredited nonpublic school in order to meet the minimum accreditation standards in Iowa Code section 256.11(5) “*b*,” “*c*,” “*f*,” “*g*,” “*i*,” and “*j*.”

(3) A nonpublic school accredited under the standards required pursuant to Iowa Code section 256.11 with a total basic educational data survey enrollment in grades 9 through 12 of not more than 200 that contracts with a community college to provide one unit of science required in Iowa Code section 256.11(5) “*a*” or one unit of mathematics required in Iowa Code section 256.11(5) “*d*” or “*e*” and any of the five units of career and technical education required in Iowa Code section 256.11B may request weighting for any community college course if the accredited nonpublic school's course enrollment exceeds five.

b. The course must be included in the community college catalog or an amendment or addendum to the catalog.

c. The course must be open to all registered community college students, not just high school students.

d. The course must be for college credit, and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.

e. The course must be taught by an instructor employed by or under contract with the community college who meets the requirements of Iowa Code section 261E.3(2).

f. The course must be taught utilizing the community college course syllabus.

EDUCATION DEPARTMENT[281](cont'd)

g. The course must be taught in such a manner as to result in student work and student assessment which meet college-level expectations.

h. The course must not have been determined as failing to meet the standards established by the postsecondary course audit committee.

97.8(2) Reporting and billing. An accredited nonpublic school that enters into a contract for concurrent enrollment courses shall submit student and course information as determined by and according to the timeline established by the department of education. The community college and accredited nonpublic school shall verify the submitted information by semesters or the equivalent. Projected supplementary weighting calculations will be available midyear, but payments to community colleges will not be disbursed until final costs are known at the end of the school year. Community colleges will not bill the accredited nonpublic school until all calculations of supplementary weighting for accredited nonpublic schools are completed.

ARC 4687C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to financial management of categorical funding and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 283A, 298A, 423E and 423F and 2019 Iowa Acts, chapter 166 [House File 546].

Purpose and Summary

Chapter 98 outlines the financial management of categorical funding.

Item 1 is a nonsubstantive reference cleanup.

Item 2 reflects legislative changes brought about during the 2019 Legislative Session, which include additional stipulations for use of tax revenues generated through the statewide sales and services tax for school infrastructure (secure an advanced vision for education fund). The proposed amendments also remove references to the former local option sales and services tax.

Item 3 clarifies that operating transfers from the school nutrition fund are allowed to claim indirect costs.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

EDUCATION DEPARTMENT[281](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Nicole Proesch
Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: nicole.proesch@iowa.gov

Public Hearing

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

October 29, 2019
3 to 4 p.m.

State Board Room, Second Floor
Grimes State Office Building
East 14th Street and Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend rule 281—98.21(257), introductory paragraph, as follows:

281—98.21(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program—modified supplemental amount. A modified supplemental amount is available through a school district-initiated request to the school budget review committee pursuant to Iowa Code sections 257.38, ~~257.39, 257.40,~~ and through 257.41. This amount must account for no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The 75 percent portion, local match, previous year carryforward, amounts designated from the flexibility account as described in rule 281—98.27(257,298A), and all donations and grants shall be accounted for as categorical funding.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Amend rule 281—98.69(76,273,298,298A,423E,423F) as follows:

281—98.69(76,273,298,298A,423E,423F) Capital projects fund. Capital projects funds are used to account for financial resources to acquire or construct major capital facilities and to account for revenues from the ~~previous local option sales and services tax for school infrastructure and the current~~ state sales and services tax for school infrastructure. Boards of directors of school districts are authorized to establish more than one capital projects fund as necessary.

98.69(1) No change.

98.69(2) *Appropriate uses of the capital projects fund.*

a. Appropriate expenditures in a capital projects fund, excluding state/local option sales and services tax for school infrastructure fund, include the following:

(1) Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, or teachers' or superintendents' home(s). Prior to approving the use of revenues for an athletic facility infrastructure project within the scope of the school district's approved revenue purpose statement, the board of directors shall adopt a resolution setting forth the proposal for the athletic facility infrastructure project and hold an additional public hearing on the issue of construction of the athletic facility as stipulated in Iowa Code section 423F.3(6A) as enacted by 2019 Iowa Acts, chapter 166, section 16.

(2) to (4) No change.

(5) School safety and security infrastructure listed in Iowa Code section 423F.3(6) as amended by 2019 Iowa Acts, chapter 166, section 15.

b. Appropriate expenditures in the state/local option sales and services tax for the school infrastructure capital projects fund shall be expended in accordance with a valid revenue purpose statement if a valid revenue purpose statement exists; otherwise, appropriate expenditures include the following in order:

(1) to (7) No change.

(8) School safety and security infrastructure listed in Iowa Code section 423F.3(6) as amended by 2019 Iowa Acts, chapter 166, section 15.

98.69(3) *Inappropriate uses of the capital projects fund.* Inappropriate expenditures in a capital projects fund include any expenditure not expressly authorized in the Iowa Code. Additionally, expenditures from the ~~state/local options~~ state sales and services tax ~~supplemental school infrastructure amount~~ for new construction or for payments for bonds issued for new construction in any district that has a certified enrollment of fewer than 250 pupils in the district or a certified enrollment of fewer than 100 pupils in the high school without a certificate of need issued by the department of education. This restriction does not apply to payment of outstanding general obligation bonded indebtedness issued pursuant to Iowa Code section 296.1 before April 1, 2003. This restriction also does not apply to costs to repair school buildings; purchase of equipment, technology or transportation equipment authorized under Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act. ~~Expenditures from the state/local options sales and services tax revenues have the same restriction as expenditures from the supplemental school infrastructure amount, excluding the restriction on payments for bonds issued for new construction.~~

ITEM 3. Amend paragraph **98.74(3)“b”** as follows:

b. Operating transfers to any other fund other than to claim indirect costs.

ARC 4689C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

**Proposing rule making related to definition of “common ownership”
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 65, “Animal Feeding Operations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 459.103.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 459.103.

Purpose and Summary

Pursuant to Chapter 5 and Iowa Code section 17A.7, the Iowa Pork Producers Association (IPPA) petitioned the Commission to amend the definition of “common ownership” as defined in rule 567—65.1(459,459B). IPPA proposed that the definition of “common ownership” be amended to replace the term “majority” with the phrase “10 percent or more.” IPPA contended in its petition that the proposed amendment “is intended to promote continued environmentally responsible livestock production in compliance with all applicable law by ensuring that multiple limited liability companies or other business entity structures with the same owners cannot be used for the purpose of avoiding environmental regulation by having all owners hold less than a majority, and none with a 10 percent or more, ownership interest with each company owning a different confinement feeding operation on the same farm.”

The Commission hereby agrees with this proposal and is proposing an amendment to the definition of “common ownership” in rule 567—65.1(459,459B) to remove the word “majority” and replace it with “10 percent or more,” meaning that a person, business or any other ownership entity subject to Iowa Code chapter 459 would be considered a common owner (and hence a single animal feeding operation) if there is an ownership interest of 10 percent or more of two or more facilities located within the regulated separation distances of one another. The proposed rule making will ensure that the ownership structures of confinement feeding operations are adequately addressed and that operations that should submit manure management plans and construction permits are doing so.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa. It is anticipated there may be a minimal increase in permit fees, indemnity fees, and compliance fees submitted to the Department of Natural Resources (Department) because there may be more confinement feeding operations that are required to submit a manure management plan, a construction permit application, or both. There is no anticipated increase in costs to the Department associated with implementing the proposed amendment. Department employees who currently oversee manure management plans and construction permits will continue to do so; no additional personnel would be needed. There will be a minimal impact to a few facilities each year that previously would not have been required to submit a manure management plan or construction permit application, but now would be required to do so because of the proposed change in the definition. The increased expenses would include consulting costs, as well as permit, compliance and indemnity fees. A copy of the fiscal impact statement is available from the Department upon request.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Fax: 515.725.8201
Email: kelli.book@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk and be directed to the appropriate hearing location.

October 29, 2019
1 to 2 p.m.

Conference Room 4 East
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

Amend rule **567—65.1(459,459B)**, definition of “Common ownership,” as follows:

“*Common ownership*” means the ownership of an animal feeding operation as a sole proprietor, or a ~~majority~~ 10 percent or more ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The ~~majority~~ ownership interest is a common ownership interest when it is held directly,

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

indirectly through a spouse or dependent child, or both. The following exceptions shall apply to this definition:

1. For an animal feeding operation structure constructed before [effective date of this rule], “common ownership” means the ownership of an animal feeding operation as a sole proprietor, or a majority ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both.

2. This definition shall not apply to a dry bedded confinement feeding operation which is subject to the common ownership requirements in Iowa Code section 459B.103(3) “a”(3).

ARC 4695C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to pharmacy practices and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 3, “Pharmacy Technicians,” Chapter 6, “General Pharmacy Practice,” Chapter 7, “Hospital Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” Chapter 13, “Telepharmacy Practice,” and Chapter 21, “Electronic Data and Automated Systems in Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 155A.13, 155A.13A, 155A.19 and 155A.33A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.76, 155A.13, 155A.13A, 155A.19 and 155A.33A.

Purpose and Summary

The proposed amendments:

- Replace the phrase “tech-check-tech program” with “technician product verification program” throughout the Board’s rules,
- Require a nonresident pharmacy applicant to identify a registered agent located in Iowa,
- Extend the time frame in which a pharmacy must respond to a request for original records from 48 to 72 hours,
- Amend language relating to requirements for closing a pharmacy which may be exempt in the event of an unforeseeable closure, and
- Simplify the rule relating to the delivery of prescription drugs.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend subrule 3.21(1) as follows:

3.21(1) *Technical dispensing functions.* A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate, or as provided for telepharmacy in 657—Chapter 13. Except as provided for an approved ~~tech-check-tech~~ technician product verification program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

ITEM 2. Amend rule 657—3.23(155A) as follows:

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. Except for a certified pharmacy technician participating in an approved ~~tech-check-tech~~ technician product verification program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;
2. to 6. No change.

PHARMACY BOARD[657](cont'd)

ITEM 3. Amend rule 657—6.8(124,155A) as follows:

657—6.8(124,155A) Prescription processing documentation. All prescriptions shall be dated and assigned a unique identification number that shall be recorded on the original prescription, except as provided in 657—subrule 21.5(1). The original prescription shall be retained by the pharmacy filling the prescription and shall be maintained in the original format as received by the pharmacy. Dispensing documentation shall include the date of fill or refill; the name, strength, and National Drug Code (NDC) of the actual drug product dispensed; and the initials or other unique identification of the pharmacist, pharmacist-intern, or technician in an approved ~~tech-check-tech~~ technician product verification program. Dispensing documentation shall be maintained and be readily available.

ITEM 4. Amend subrule 6.16(2) as follows:

6.16(2) Storage of records. Original hard-copy prescriptions and other pharmacy records shall be maintained by the pharmacy for a minimum of two years from the date of the record in accordance with this subrule.

a. Records shall be maintained within the licensed pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the licensed pharmacy department, including at a remote location, if the pharmacy has retained an electronic copy of the records in the pharmacy that is immediately available and if the original records are available within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

b. Records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department, including at a remote location, if the records are retrievable within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 5. Amend paragraph 7.6(1)“b” as follows:

b. Certified pharmacy technicians. Pursuant to the pharmacy’s policies and procedures, a certified pharmacy technician may be granted access to the pharmacy department to perform authorized technical functions. In the absence of a pharmacist, a certified pharmacy technician may only dispense, deliver, or distribute a drug, including a compounded preparation and controlled substance, when the drug is verified by a pharmacist, including by a remote pharmacist, except as authorized in an approved ~~tech-check-tech~~ technician product verification program. A certified pharmacy technician may assist a licensed health care professional in locating a drug to meet the emergent needs of a patient but shall not provide final verification of the accuracy of the drug product obtained.

ITEM 6. Amend subrule 7.13(4) as follows:

7.13(4) Storage of records. Original hard-copy records shall be maintained by the pharmacy for a minimum of two years from the date of the record in accordance with this subrule.

a. Records shall be maintained within the pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the pharmacy department, including at a remote location, if the pharmacy has retained an electronic copy of the records in the pharmacy that is immediately available and if the original records are available within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

b. Records more than 12 months old may be maintained in a secure storage area outside the pharmacy department, including at a remote location, if the records are retrievable within 48 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 7. Amend rule 657—8.9(124,155A) as follows:

657—8.9(124,155A) Records storage. Every record required to be maintained by a pharmacy pursuant to board rules or Iowa Code chapters 124 and 155A shall be maintained and be available for inspection and copying by the board or its representative for at least two years from the date of such record or the date of last activity on the record unless a longer retention period is specified for the particular record.

PHARMACY BOARD[657](cont'd)

8.9(1) *Records less than 12 months old.* Records shall be maintained within the licensed pharmacy department for a minimum of 12 months, except as provided herein. Pharmacy records less than 12 months old may be stored in a secure storage area outside the licensed pharmacy department, including at a remote location, if the pharmacy has retained electronic copies of the records in the pharmacy that are immediately available and if the original records are available within ~~48~~ 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

8.9(2) *Records more than 12 months old.* Records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department, including at a remote location, if the records are retrievable within ~~48~~ 72 hours of a request by the board or its authorized agent, unless such remote storage is prohibited under federal law.

ITEM 8. Rescind rule 657—8.15(155A) and adopt the following new rule in lieu thereof:

657—8.15(155A) Delivery of prescription drugs and devices. A prescription order may be delivered to a patient at any location licensed as a pharmacy. Alternatively, a pharmacy may use the mail, a common carrier, or personal delivery to deliver a prescription order to any location requested by the patient. A pharmacy that delivers prescription orders by one or more alternate methods shall have policies and procedures to ensure patient confidentiality, prescription order accountability, and proper storage of prescription orders during delivery. When counseling is required pursuant to rule 657—6.14(155A), oral counseling shall be provided before the prescription order is delivered to the patient. Documentation of the delivery of prescription orders shall be maintained by the pharmacy for at least two years from the date of delivery. The term “patient” includes the patient and the patient’s authorized representatives.

ITEM 9. Amend rule 657—8.24(155A) as follows:

657—8.24(155A) Documented verification. The pharmacist shall provide, document, and retain a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative. In an approved ~~tech-check-tech~~ technician product verification program, the checking technician shall provide, document, and retain a record of the final verification for the accuracy of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative.

ITEM 10. Amend paragraphs **8.35(2)“d”** and **“e”** as follows:

- d. Criminal and disciplinary history information; ~~and~~
- e. Description of the scope of services provided by the pharmacy; and

ITEM 11. Adopt the following new paragraph **8.35(2)“f”**:

- f. If the pharmacy is located outside of Iowa, identification of a registered agent located in Iowa.

ITEM 12. Amend subrule 8.35(7) as follows:

8.35(7) *Closing or sale of a pharmacy.* A closing pharmacy shall ensure that all pharmacy records are transferred to another licensed pharmacy that agrees to act as custodian of the records for at least two years. A pharmacy shall not execute a sale or closing of a pharmacy unless there exists an adequate period of time prior to the pharmacy’s closing for delivery of the notifications to the pharmacist in charge, the board, the DEA, and pharmacy patients as required by this subrule. ~~However, the provisions of this subrule regarding prior notifications to the board, the DEA, and patients shall not apply in the case of a board-approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster.~~ The executive director may exempt a pharmacy from one or more of the notification requirements in the event of an unforeseeable closure.

- a. to h. No change.

ITEM 13. Amend subrule 13.8(7) as follows:

13.8(7) *Prohibited activities.* In the physical absence of a pharmacist, the following activities are prohibited:

- a. to c. No change.

PHARMACY BOARD[657](cont'd)

- d. ~~Tech-check-tech-practice~~ Technician product verification program activities.
 e. and f. No change.

ITEM 14. Amend rule **657—21.2(124,155A)**, definitions of “Pharmacist verification” and “Readily retrievable,” as follows:

“*Pharmacist verification*” or “*verified by a pharmacist*” means the accuracy of a prescription drug is verified by a pharmacist, pharmacist-intern, or technician in an approved ~~tech-check-tech~~ technician product verification program.

“*Readily retrievable*” means that hard-copy or electronic records can be separated out from all other records within 48 72 hours of a request from the board or other authorized agent.

ARC 4694C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to transmission of prescription drug orders and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.76.

Purpose and Summary

The proposed amendment would allow one pharmacy to provide prescription drug order information to another pharmacy for a noncontrolled substance prescription for the purpose of providing a patient with a three-day supply of continuing medication without the process constituting a complete transfer of the entire prescription.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

PHARMACY BOARD[657](cont'd)

Sue Mears
 Board of Pharmacy
 400 S.W. 8th Street, Suite E
 Des Moines, Iowa 50309
 Email: sue.mears@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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

Amend rule 657—6.9(124,155A) as follows:

657—6.9(124,155A) Transfer of prescription. The transmission of a prescription drug order from a pharmacy to a pharmacy engaged in centralized prescription filling or processing on behalf of the originating pharmacy pursuant to the requirements of 657—Chapter 18 shall not constitute the transfer of a prescription. The transmission of a prescription drug order from a pharmacy to another pharmacy for the purpose of providing a patient with a three-day supply of a noncontrolled substance for continuing therapy shall not constitute the transfer of a prescription. Upon the request of a patient or the patient’s caregiver, a pharmacy shall transfer original prescription drug order information and prescription refill information to a pharmacy designated by the patient or the patient’s caregiver, central fill or processing pharmacies excepted, subject to the following requirements:

6.9(1) to 6.9(8) No change.

ARC 4693C

PHARMACY BOARD[657]

Notice of Intended Action

**Proposing rule making related to expedited partner therapy
 and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 6, “General Pharmacy Practice,” Chapter 7, “Hospital Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” and Chapter 18, “Centralized Prescription Filling and Processing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 139A.41.

PHARMACY BOARD[657](cont'd)

Purpose and Summary

The proposed amendments allow a pharmacist to fill a non-patient-specific prescription when the prescription is issued pursuant to Iowa Code section 139A.41 for the purpose of expedited partner therapy to treat a sexually transmitted chlamydia or gonorrhea infection in an unnamed partner or partners.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend subrule 6.10(1) as follows:

6.10(1) Required information. The label affixed to or on the dispensing container of any prescription drug or device dispensed by a pharmacy pursuant to a prescription drug order shall bear the following:

a. and b. No change.

c. ~~Except~~ The name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner, except as provided in 657—subrule 8.19(7) for epinephrine auto-injectors, or 657—subrule 8.19(8) for opioid antagonists, ~~the name of the patient or, if such drug is~~

PHARMACY BOARD[657](cont'd)

~~prescribed for an animal, the species of the animal and the name of its owner~~ or 657—subrule 8.19(9) for expedited partner therapy;

d. to g. No change.

h. The initials or other unique identification of the dispensing pharmacist, unless the identification of the pharmacist involved in each step of the prescription filling process is electronically documented and retrievable.

ITEM 2. Adopt the following **new** subrule 6.13(4):

6.13(4) Expedited partner therapy. When a pharmacy dispenses a prescription drug pursuant to Iowa Code section 139A.41 and 657—subrule 8.19(9) for expedited partner therapy, a pharmacy is only required to maintain the information about the patient who is known to the pharmacy.

ITEM 3. Amend rule 657—7.12(124,126,155A) as follows:

657—7.12(124,126,155A) Drugs in the emergency department. Drugs maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department. Drugs shall be administered or dispensed only to emergency department patients. For the purposes of this rule, “emergency department patient” means a patient who is examined and evaluated in the emergency department and includes the partner or partners of a patient treated pursuant to Iowa Code section 139A.41.

7.12(1) and 7.12(2) No change.

7.12(3) Drug dispensing. Only a pharmacist or prescriber may dispense any drugs to an emergency department patient pursuant to the provisions of this rule.

a. No change.

b. *Prescriber responsibility.* Except as provided in subrule 7.12(4), a prescriber who authorizes the dispensing of a prescription drug to an emergency department patient is responsible for the accuracy of the dispensed drug and for the accurate completion of label information pursuant to this paragraph, including when any portion of the dispensing process is delegated to a licensed nurse under the supervision of the prescriber.

(1) Except as provided in subrule 7.12(4), at the time of delivery of the drug the prescriber shall be responsible for ensuring that the dispensing container bears a label with at least the following information:

1. Name and address of the hospital;
2. Date dispensed;
3. Name of prescriber;
4. Name of patient, except when the drug is dispensed for one or more unnamed partners receiving expedited partner therapy pursuant to Iowa Code section 139A.41;
5. Directions for use; and
6. Name, quantity, and strength of drug.

(2) No change.

7.12(4) No change.

ITEM 4. Amend paragraph **8.19(1)“a”** as follows:

a. *Written, electronic, or facsimile prescription.* In addition to the electronic prescription application and pharmacy prescription application requirements of this rule, a written, electronic, or facsimile prescription shall include:

(1) No change.

(2) The name and address of the patient except as provided in subrule 8.19(7) for epinephrine auto-injectors, ~~and in~~ subrule 8.19(8) for opioid antagonists, or subrule 8.19(9) for expedited partner therapy.

(3) to (5) No change.

ITEM 5. Adopt the following **new** subrule 8.19(9):

8.19(9) Expedited partner therapy. Pursuant to Iowa Code section 139A.41, a physician, physician assistant, or advanced registered nurse practitioner may issue a prescription to one or more sexual

PHARMACY BOARD[657](cont'd)

partners of an infected patient for an oral antibiotic intended to treat a sexually transmitted chlamydia or gonorrhea infection. The prescription shall comply with all requirements of subrule 8.19(1) as applicable to the form of the prescription except that the prescription shall not be required to contain the patient name and address. The prescription shall indicate the antibiotic is being issued for the purpose of expedited partner therapy. Provisions requiring a preexisting patient-prescriber relationship shall not apply to a prescription issued pursuant to this subrule.

ITEM 6. Amend rule 657—8.21(155A) as follows:

657—8.21(155A) Prospective drug use review.

8.21(1) For purposes of promoting therapeutic appropriateness and ensuring rational drug therapy, a pharmacist shall review the patient record, information obtained from the patient, and each prescription drug or medication order to identify:

1. a. Overutilization or underutilization;
2. b. Therapeutic duplication;
3. c. Drug-disease contraindications;
4. d. Drug-drug interactions;
5. e. Incorrect drug dosage or duration of drug treatment;
6. f. Drug-allergy interactions;
7. g. Clinical abuse/misuse;
8. h. Drug-prescriber contraindications.

Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem and shall, if necessary, include consultation with the prescriber. The review and assessment of patient records shall not be delegated to pharmacy technicians or pharmacy support persons but may be delegated to registered pharmacist-interns under the direct supervision of the pharmacist.

8.21(2) A pharmacist shall be exempt from the requirements of subrule 8.21(1) when dispensing a prescription issued to an unnamed patient for an oral antibiotic pursuant to Iowa Code section 139A.41.

ITEM 7. Amend subrule 18.3(4) as follows:

18.3(4) Central fill label requirements. The label affixed to the prescription container filled by a central fill pharmacy on behalf of an originating pharmacy shall include the following:

- a. to c. No change.
- d. Except The name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner, except as provided in 657—subrule 8.19(7) for epinephrine auto-injectors, or 657—subrule 8.19(8) for opioid antagonists, the name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner or 657—subrule 8.19(9) for expedited partner therapy;
- e. to h. No change.
- i. The initials or other unique identification of the pharmacist who performed drug use review, unless the identification of the pharmacist involved in each step of the prescription filling process is electronically documented and retrievable.

ARC 4692C

PHARMACY BOARD[657]

Notice of Intended Action

**Proposing rule making related to temporary scheduling of synthetic cathinones
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 124.201 and 124.301.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

This proposed rule making temporarily places into Schedule I of the Iowa Uniform Controlled Substances Act six synthetic cathinones in response to scheduling action of the same nature by the U.S. Drug Enforcement Administration.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

PHARMACY BOARD[657](cont'd)

Amend subrule 10.39(5) as follows:

10.39(5) Amend Iowa Code section 124.204(6) “i” by adding the following new ~~subparagraph~~ subparagraphs:

(27) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one. Other names: N-ethylpentylone or ephylone.

(28) N-Ethylhexedrone, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: 2-(ethylamino)-1-phenylhexan-1-one.

(29) alpha-pyrrolidinohexanophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: α -PHP; alpha-pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one.

(30) 4-Methyl-alpha-ethylaminopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4—MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one.

(31) 4'-Methyl-alpha-pyrrolidinohexiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: MPHP; 4'-methyl-alpha-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one.

(32) alpha-Pyrrolidinoheptaphenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one.

(33) 4'-Chloro-alpha-pyrrolidinovalerophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-chloro- α -PVP; 4'-chloro-alpha-pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one.

ARC 4691C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to changes in distributor facility managers and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 17, “Wholesale Distributor Licenses,” Chapter 42, “Limited Distributor Licenses,” and Chapter 43, “Third-Party Logistics Provider Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 155A.17, 155A.17A, 155A.40 and 155A.42.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.76, 155A.17, 155A.17A, 155A.40 and 155A.42.

Purpose and Summary

The proposed amendments provide the process by which a limited distributor, wholesale distributor, or third-party logistics provider (3PL) would notify the Board of a change in facility manager, and by which the license of the wholesale distributor or 3PL would be modified to reflect a change in facility manager. The proposed amendments also correct references to the Iowa Code.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

PHARMACY BOARD[657](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@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 rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Amend rule 657—17.1(155A) as follows:

657—17.1(155A) Purpose and scope. This chapter establishes the licensing requirements and standards applicable to a wholesale distributor of human prescription drugs as defined by Iowa Code section ~~155A.3(49)~~ 155A.3 and the Drug Supply Chain Security Act. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter.

ITEM 2. Amend rule **657—17.2(155A)**, definition of “Wholesale distribution,” as follows:

“*Wholesale distribution*” means the distribution of a drug to a person other than a consumer or patient, or the receipt of a drug by a person other than a consumer or patient, but does not include transactions identified in Iowa Code section ~~155A.3(48)~~ 155A.3 and DSCSA.

ITEM 3. Adopt the following **new** paragraph **17.3(3)“d”**:

d. Change in facility manager. When a wholesale distributor has a change in facility manager, a new facility manager shall be identified pursuant to this paragraph. If a permanent facility manager is not currently the facility manager of a licensed facility, the facility manager shall submit to a criminal background check.

PHARMACY BOARD[657](cont'd)

(1) If a permanent facility manager has been identified at the time of the vacancy, a wholesale distributor license application identifying the new permanent facility manager, along with the appropriate fee, shall be submitted to the board within ten days of the vacancy.

(2) If no permanent facility manager has been identified at the time of the vacancy, a temporary facility manager shall be identified and notice of such shall be submitted in writing to the board within ten days of the vacancy. Within 90 days of the vacancy, a permanent facility manager shall be identified and a wholesale distributor license application identifying the permanent facility manager, along with the appropriate fee, shall be submitted to the board.

ITEM 4. Adopt the following **new** subrule 42.3(8):

42.3(8) Change in facility manager. If a distributor has a change in facility manager, the licensee shall provide notice to the board on forms provided by the board within ten days of the change.

ITEM 5. Adopt the following **new** paragraph **43.3(5)“d”**:

d. Change in facility manager. When a 3PL has a change in facility manager, a new facility manager shall be identified pursuant to this paragraph. If a permanent facility manager is not currently the facility manager of a licensed facility, the facility manager shall submit to a criminal background check.

(1) If a permanent facility manager has been identified at the time of the vacancy, a 3PL license application identifying the new permanent facility manager, along with the appropriate fee, shall be submitted to the board within ten days of the vacancy.

(2) If no permanent facility manager has been identified at the time of the vacancy, a temporary facility manager shall be identified and notice of such shall be submitted in writing to the board within ten days of the vacancy. Within 90 days of the vacancy, a permanent facility manager shall be identified and a 3PL license application identifying the permanent facility manager, along with the appropriate fee, shall be submitted to the board.

ARC 4680C**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Notice of Intended Action****Proposing rule making related to expedited licensure for spouses of active duty military service members and prohibition of licensing sanctions for student loan debt and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to amend Chapter 4, “Social Security Numbers and Proof of Legal Presence,” Chapter 8, “Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support, Student Loan, or State Debt,” and Chapter 14, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 272C as amended by 2019 Iowa Acts, House File 288; 2019 Iowa Acts, Senate File 304; and Iowa Code sections 546.3 and 546.10.

The proposed amendments were approved by the Accountancy Examining Board on September 16, 2019; the Architectural Examining Board on August 30, 2019; the Engineering and Land Surveying Examining Board on September 12, 2019; the Interior Design Examining Board on August 30, 2019; the Landscape Architectural Examining Board on September 4, 2019; and the Real Estate Commission on September 5, 2019.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 288, and 2019 Iowa Acts, Senate File 304.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Purpose and Summary

These proposed amendments implement changes required by 2019 Iowa Acts, House File 288, providing for expedited licensure for spouses of active duty service members of the military forces of the United States, and 2019 Iowa Acts, Senate File 304, prohibiting the suspension or revocation of a license issued by a licensing board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Bureau for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Bureau no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Lori SchraderBachar
Professional Licensing and Regulation Bureau
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Phone: 515.725.9030
Email: lori.schraderbachar@iowa.gov

Public Hearing

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

October 29, 2019
9 to 9:30 a.m.

Bureau Offices, Suite 350
200 East Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Bureau and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend rule 193—4.1(546) as follows:

193—4.1(546) Purpose. This chapter outlines a uniform process for applicants and licensees of all boards in the bureau 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), ~~261.126(4)~~, and 272D.8(1) for purposes including the collection of child support obligations, ~~college student loan obligations~~, and debts owed to the state of Iowa.

ITEM 2. Amend **193—Chapter 8**, title, as follows:

DENIAL OF ISSUANCE OR RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE
FOR NONPAYMENT OF CHILD SUPPORT, ~~STUDENT LOAN~~, OR STATE DEBT

ITEM 3. Rescind rule 193—8.2(261) and adopt the following **new** rule in lieu thereof:

193—8.2(272C) Prohibited grounds for discipline. The board shall not suspend or revoke a license issued by the board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

ITEM 4. Amend **193—Chapter 14** as follows:

CHAPTER 14

MILITARY SERVICE, ~~AND~~ VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS

193—14.1(85GA, ~~ch1116~~ 272C) Definitions.

“*Board*” means an examining board or commission within the professional licensing and regulation bureau.

“*License*” or “*licensure*” means any license, registration, certificate, or permit that may be granted by an examining board or commission within the professional licensing and regulation bureau.

“*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); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“*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 service member of the military forces of the United States.

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

193—14.2(85GA, ~~ch1116~~ 272C) 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 board office.

14.2(1) to 14.2(8) No change.

193—14.3(85GA, ~~ch1116~~ 272C) Veteran and spouse of active duty service member reciprocity.

14.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

14.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or spouse of an active duty service member of the military forces of the United States.

14.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

14.3(4) The board shall promptly grant a license to the veteran applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

14.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran applicant with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

14.3(6) ~~A veteran~~ An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193—Chapter 7 shall apply, except that no fees or costs shall be assessed against the veteran applicant in connection with a contested case conducted pursuant to this subrule.

14.3(7) The licensure requirements for some professions regulated by the boards are very similar or identical across jurisdictions. Given federal mandates, for instance, the requirements to become certified as a real estate appraiser authorized to perform appraisals for federally related transactions are

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

substantially the same nationwide. The requirements to become certified as a certified public accountant are also substantially equivalent nationwide as long as the certified public accountant also holds a license or permit to practice in those jurisdictions which have a two-tiered system of issuing a certificate and a separate license or permit to practice public accounting. For other professions, the ~~veteran~~ applicant is encouraged to consult with board staff prior to submitting an application for reciprocal licensure to determine in advance whether there are jurisdictional variations that may impact reciprocal licensure.

These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, division VI~~ Iowa Code chapter 272C.

ARC 4690C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to child and dependent adult abuse mandatory reporter training and providing an opportunity for public comment**

The Board of Athletic Training hereby proposes to amend Chapter 351, “Licensure of Athletic Trainers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 232.69(3)“e,” 235B.16(5)“f,” and 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16 as amended by 2019 Iowa Acts, chapter 91 [House File 731].

Purpose and Summary

2019 Iowa Acts, chapter 91, amends Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse reporting for certain professionals. This proposed rule making amends the Board’s requirements for mandatory training in child and dependent adult abuse reporting to reflect the statutory changes and requires that athletic trainers who must make reports for child and dependent adult abuse comply with the requirements for training every three years as provided in the amended Iowa Code sections 232.69 and 235B.16. This proposed rule making also updates subrule 351.9(4) to remove a reference to a rescinded rule provision.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

Venus Vendoures-Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

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

October 29, 2019
10 to 10:30 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making action is proposed:

Amend subrule 351.9(4) as follows:

351.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of ~~two hours of~~ training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of ~~two hours of~~ training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. ~~A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."~~

~~Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~dependent adult abuse.~~ The ~~course~~ course(s) shall be a the curriculum approved ~~provided~~ by the Iowa department of ~~public health abuse education review panel~~ human services.

d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, ~~including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645 Chapter 352.~~

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

ARC 4681C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to electronic submission of proof of financial responsibility and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 524, “For-Hire Intrastate Motor Carrier Authority,” and Chapter 640, “Financial Responsibility,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321A.2 and 325A.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 321A and 325A.

Purpose and Summary

The proposed amendments update the Department’s rules regarding financial responsibility. Minor amendments within Chapter 640 update the contact information for the Driver and Identification Services Bureau, change “driver’s license examination stations” to “driver’s license service centers,” remove unnecessary language, correct terminology, correct form numbers, and add or correct form names for consistency within the chapter.

The most significant changes to Chapters 524 and 640 require the proof of financial responsibility forms (SR-22 and SR-23) and the cancellation of future proof of financial responsibility form (SR-26), as well as “Motor Carrier Certificate of Insurance” Form E and Form K, to be submitted electronically to the Department in a format approved by the Department. SR-22, SR-23 and SR-26 forms are required under Iowa Code section 321A.17 to demonstrate proof of financial responsibility whenever the Department suspends or revokes a person’s driver’s license as a result of a qualifying traffic conviction. Forms E and K demonstrate required proof of financial responsibility for motor carriers under Iowa Code chapter 325A. Electronic submission of these forms will have a positive effect on the Department’s processing turnaround times and will improve efficiency and performance in processing customer paperwork.

The Department has offered insurance carriers the ability to submit required proof of financial responsibility forms to the Department electronically for approximately four years, and several carriers

TRANSPORTATION DEPARTMENT[761](cont'd)

have elected to use the electronic submission process. However, several other carriers still continue to submit the required forms via a paper-based process.

The electronic filing process is efficient and secure, and it provides faster results for the Department's customers than a paper-based process. However, the switch from a paper to an electronic process can take some planning, and in the interest of providing sufficient notice of the Department's intention to require electronic submission of these forms, the Department contacted all insurance carriers licensed to do business in the state of Iowa in April 2018 and informed them of the pending transition to the electronic submission process and the Department's intent to require electronic submission in advance of the rule requirement becoming effective. Several carriers volunteered to transition to the electronic submission process after receiving the Department's notification, but some carriers indicated their preference not to make the switch until the requirement was mandatory. This proposed rule making seeks to require all insurance carriers to implement the electronic filing process for these required forms no later than July 1, 2021. The Department's available electronic submission process consists of two options:

- The first option is a trusted third-party (TPA) website. This website solution is designed for low-volume submitters that may not have the technical staff or otherwise be in the position to dedicate the resources to implement an end-to-end solution. The website offers the functionality of submitting single filings, much like submitting the filing by paper, except that using the website offers the additional security and efficient processing that is not available in the paper process.

- The second option is a web service application program interface (API) that allows an insurance carrier's system to directly communicate with the Department's driver's license record system (known as ARTS). The web service solution is designed for high-volume submitters. The web service contains several validation checks against data submitted and provides the insurance carrier's computer system with success/error feedback. To ease the implementation process, the Department developed guidance documentation for integrating with the Department's web service API. The Department is enthusiastic about fully implementing this electronic submission solution, not only for the security and efficiency it offers but also for the faster processing time the Department will be able to offer to customers whose livelihoods rely on the timely submission of these documents.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa and does not change the proof of financial responsibility forms that insurance carriers are currently required to submit to the Department. It also does not change or expand the circumstances under which proof of financial responsibility is required. This rule making only changes the submission method from a paper process to a secure electronic process.

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 29, 2019. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

Tracy George
 Department of Transportation
 DOT Rules Administrator, Strategic Communications and Policy Bureau
 800 Lincoln Way
 Ames, Iowa 50010
 Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

October 31, 2019
 10 a.m.

Department of Transportation
 Motor Vehicle Division
 6310 SE Convenience Boulevard
 Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule-making actions are proposed:

ITEM 1. Adopt the following **new** paragraph **524.7(1)“c”**:

c. Prior to July 1, 2021, the certificate of insurance may be submitted electronically in a format approved by the department. An insurance carrier that submits the certificate of insurance under this rule shall implement electronic submission of such certificate no later than July 1, 2021. As of July 1, 2021, no paper submissions of such certificates shall be accepted, and all certificates of insurance shall be submitted electronically in a format approved by the department.

ITEM 2. Amend subrule 640.1(3) as follows:

640.1(3) Submissions and information. ~~All~~ Except as otherwise provided in this chapter, required submissions shall be either mailed to the ~~Office of Driver and Identification Services Bureau,~~ Iowa Department of Transportation, P.O. Box ~~9235 9204,~~ Des Moines, Iowa ~~50306-9235 50306-9204;~~ delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to ~~(515)237-3071 (515)239-1837.~~ Information about the financial responsibility law is available from these sources or by telephone at ~~(800)532-1121 (515)244-8725.~~

ITEM 3. Amend rule 761—640.3(321A) as follows:

761—640.3(321A) Accident reporting requirements. Accident reporting requirements are specified in Iowa Code section 321.266 and on Form 433002, “Iowa Accident Report Form,” which is available from law enforcement officers, driver’s license ~~examination stations~~ service centers, or from the ~~office of driver and identification services bureau~~ at the address in subrule 640.1(3).

This rule is intended to implement Iowa Code sections 321.266 and 321A.4.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 4. Amend subrule 640.4(3) as follows:

640.4(3) Security—amounts and type.

a. The amount of security required of the uninsured driver and owner shall be determined from reports of the drivers involved in the accident, reports of investigating officers and from supplemental information obtained from persons involved in the accident concerning amounts of damage and injury sustained. Form 431020 431074, “Insurance Request Letter,” may be mailed to parties to the accident for supplemental information. The security required shall not be increased after the suspension notice has been served, but may be reduced if evidence of exact costs is submitted to the department. The amount of security shall not exceed the minimum limits of liability for death or injury specified in Iowa Code chapter 321A.

b. The security shall be deposited with the ~~office of driver and identification services bureau~~ at the address in subrule 640.1(3). The department shall issue to the depositor a receipt when the security is received. ~~The depositor shall surrender the receipt when a refund is requested.~~ Security shall be one of the following types:

(1) to (3) No change.

ITEM 5. Amend subrule 640.4(4) as follows:

640.4(4) Security disposition.

a. Security is held by the state treasurer and can be released only for payment of a judgment or as otherwise provided in Iowa Code section 321A.10; or by a court, including by Form 431097, “Order for Release of Security;” ~~Form 431097,~~ or by Form 433010, “Assignment and Release;” ~~Form 433010.~~

b. The security can be refunded at any time as follows:

(1) When compliance as provided in 640.4(5) is presented to the ~~office of driver and identification services bureau~~; or

(2) When Form 433007, “District Court Affidavit,” is completed by the clerk of the district court of the county where the accident occurred, the form indicates that no action has been initiated or judgment rendered, and the form is submitted to the ~~office of driver and identification services bureau~~.

ITEM 6. Amend subrule 640.4(5) as follows:

640.4(5) Exceptions to requirement of security. Compliance can be shown as follows: general releases, agreement releases, confession of judgment, accord and satisfaction, covenant not to sue, no-fault or no reasonable possibility of judgment, adjudication nonliability, and bankruptcy.

a. *General release.* Form 431036, “General Release,” may be obtained from the ~~office of driver and identification services bureau~~ at the address in subrule 640.1(3). The signature of the party giving the release shall be notarized or witnessed by a disinterested person. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than the party sustaining damage or injury.

b. *Agreement release.* Form 181301, “Agreement Release,” may be obtained from the ~~office of driver and identification services bureau~~ at the address in subrule 640.1(3). Complete information shall be provided on the form including the total amount of settlement agreed upon by the parties involved and a release of liability upon fulfillment of payments. The signatures of all parties to the agreement shall be notarized. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than a party sustaining damage or injury. Compliance shall be credited only to a party who has agreed to make payment and whose signature appears on the agreement release.

c. *Confession of judgment.* A court certified copy of a confession of judgment including the payment schedule agreed to by the parties is acceptable compliance. No specific form is provided by the ~~office of driver and identification services bureau~~.

d. to g. No change.

h. *Bankruptcy.* Security is not required of a person when all possible claims against the person arising from the accident have been scheduled in the bankruptcy petition. To establish this exception, the person shall submit a copy of the petition for bankruptcy to the ~~office of driver and identification services bureau~~ at the address in subrule 640.1(3).

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 7. Amend paragraph **640.4(6)“b”** as follows:

b. A person may be exempted from the security requirements applicable to an owner if the motor vehicle had been sold but the title had not been transferred when the accident occurred.

(1) The person who sold the motor vehicle may qualify for this exemption by submitting to the department an Form 431125, “Affidavit of Buyer-Seller, Affidavit of Seller.” ~~Form 431125.~~ This form must be completed by both the buyer and seller with signatures notarized or attested to by an officer of the department.

(2) A sworn affidavit by the seller and witnesses to the sale that the vehicle had been sold may be furnished in lieu of ~~Form 431125.~~ “Affidavit of Seller.” The affidavit must include a description of the vehicle, the date of the sale, the monetary consideration, facts concerning the assignment of title and delivery of possession, and the names of witnesses to the sale.

ITEM 8. Amend subrule 640.5(1) as follows:

640.5(1) Suspension. The suspension becomes effective on the date Form 431010, ~~a suspension notice,~~ “Suspension Notice,” is served pursuant to 761—615.37(321). The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown. The duration of the suspension is provided in Iowa Code section 321A.14. When the suspension ends, the department shall issue to the person Form 431009, ~~a suspension termination notice.~~ “Suspension Termination Notice.”

ITEM 9. Amend rule 761—640.6(321A) as follows:

761—640.6(321A) Proof of financial responsibility for the future. Proof of financial responsibility for the future is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. Unless the person has filed proof of financial responsibility for all motor vehicles registered to that person, the department shall also suspend the person’s motor vehicle registrations.

640.6(1) No change.

640.6(2) Methods of giving proof.

a. Proof of financial responsibility may be shown by a liability insurance certificate pursuant to Iowa Code section 321A.19. Form SR-22, “AAMVA Uniform Financial Responsibility Form,” is required as the form of the certificate except when proof of financial responsibility is submitted electronically. When proof of financial responsibility is submitted electronically, the proof shall be in a format approved by the department. The form may describe an owner’s or operator’s policy and shall identify the policyholder by name, address, ~~driver~~ driver’s license number, and birth date. The effective date of the policy shall be the same as the effective date on the form. The vehicles covered shall be identified by year, make, model and vehicle identification number. The form shall be certified in accordance with the Iowa financial responsibility law by an insurance carrier authorized to transact insurance business in Iowa or by a ~~company~~ carrier authorized by power of attorney. The policy shall be canceled only as provided in Iowa Code section 321A.22. Certification of coverage for an owner’s policy authorizes the policyholder to have registrations for the described vehicles. Certification of coverage for an operator’s policy does not authorize registrations.

(1) ~~In lieu of Form SR-22, the department shall accept a copy of the form if the copy is no larger than 8½ by 11 inches and is generated by a process that produces an unaltered image or reproduction, except for size and color, of Form SR-22.~~

(2) ~~In lieu of Form SR-22, the department shall accept an electronic record if the format of the record is approved by the department.~~

b. Proof may be given for a person who is an operator in the employ of the owner of the motor vehicle, or who is a member of the immediate family or household of the owner pursuant to Iowa Code section 321A.26, if the owner’s insurance ~~company~~ carrier certifies ~~Form SR-22~~ for the person required to show proof. The In addition to the requirements are given in paragraph 640.6(2)“a” except that 640.6(2)“a,” the form proof shall identify both the policyholder and the person for whom proof is given. This certification does not authorize the person required to give proof to register a motor vehicle.

TRANSPORTATION DEPARTMENT[761](cont'd)

c. Proof may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles ~~on~~, if the owner's insurance carrier certifies for the person required to show proof, by submitting Form SR-23, "AAMVA Uniform Financial Responsibility Form," except when proof of financial responsibility is submitted electronically. When proof of financial responsibility is submitted electronically, the proof shall be in a format approved by the department. The form shall identify the policyholder's name and address, policy number, policy dates and effective date. This certification does not authorize the person required to give proof to register a motor vehicle.

d. No change.

640.6(3) Rescinded, effective 1/26/83.

640.6(4) *Terminating the suspension upon filing of proof.* When future proof of financial responsibility is shown and the person is otherwise eligible for licensing, the department shall issue Form 431009, ~~a suspension termination notice,~~ "Suspension Termination Notice," to the person whose privileges were suspended under Iowa Code ~~sections~~ section 321A.13, 321A.14, 321A.16 or 321A.17 or rules ~~640.5(321A) 761—640.5(321A) and 640.6(321A) 761—640.6(321A).~~ To regain operating privileges, the person shall ~~appear before an Iowa driver license examiner,~~ pass the required examinations, and pay the required fees. The person's operating and registration privileges are restricted to the motor vehicles covered under the proof of financial responsibility filed by the applicant.

640.6(5) *Cancellation of future proof.* An insurance carrier shall only cancel or terminate a certificate of insurance pursuant to Iowa Code section 321A.22. The cancellation shall be certified by an authorized ~~company carrier~~ representative on Form SR-26, "AAMVA Uniform Financial Responsibility," Form," except when cancellation of future proof of financial responsibility is submitted electronically. When cancellation of future proof of financial responsibility is submitted electronically, the cancellation shall be in a format approved by the department. The Form SR-26 cancellation of future proof of financial responsibility shall identify the SR-22 or SR-23 proof of financial responsibility certificate to be canceled by name and address of the person, social security number, birth date, ~~driver~~ driver's license number, number of the policy to be canceled and the effective date of cancellation.

640.6(6) *Suspension when future proof is canceled.*

a. No change.

b. If the person fails to refile, Form 431010, ~~a suspension notice,~~ "Suspension Notice," shall be served in accordance with 761—615.37(321). The effective date of the suspension shall be the date the notice is served. The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until future proof is refilled. When the person refiles future proof, the department shall issue to the person Form 431009, ~~a suspension termination notice.~~ "Suspension Termination Notice."

640.6(7) *Terminating the two-year proof requirement.* Form 431009, ~~a suspension termination notice,~~ "Suspension Termination Notice," shall be issued to a person who has completed future proof requirements. The form shall notify the person that proof is no longer required and that the person may operate and register motor vehicles without the proof restrictions. If the person's driver's license is still valid, the person ~~shall appear before an Iowa driver license examiner to~~ may obtain a duplicate driver's license without the proof restrictions. If the driver's license has expired or has not been reinstated and the person is otherwise eligible for licensing, the person shall pass the required examinations and pay the required fees. The suspension termination notice may also be presented to the county treasurer to obtain a new registration.

640.6(8) *Electronic submission of proof of financial responsibility and cancellation of future proof of financial responsibility.* Prior to July 1, 2021, an insurance carrier authorized to transact business in the state of Iowa may electronically submit proof of financial responsibility and cancellation of future proof of financial responsibility in a format approved by the department. An insurance carrier that submits proof of financial responsibility or cancellation of future proof of financial responsibility under this rule shall implement electronic submission of such proof no later than July 1, 2021. As of July 1, 2021, no paper submissions of such proofs shall be accepted, and all proof of financial responsibility

TRANSPORTATION DEPARTMENT[761](cont'd)

and cancellation of future proof of financial responsibility shall be submitted electronically in a format approved by the department.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29, 321A.31 and 321A.34.

ARC 4699C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to required reports of misconduct

The Educational Examiners Board hereby amends Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.15 as amended by 2019 Iowa Acts, chapter 87 [House File 637].

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, chapter 87.

Purpose and Summary

This amendment is intended to implement 2019 Iowa Acts, chapter 87, which states that required reports of misconduct under Iowa Code section 272.15 shall be submitted within 30 days of the disciplinary action or awareness of misconduct that necessitated the report. The Board’s administrative rules currently have a 60-day timeline for the reporting of disqualifying criminal convictions and no required timeline for the reporting of disciplinary actions based on the four behavior areas enumerated in Iowa Code section 272.15(1)“a”(1). This amendment provides a clear 30-day timeline for all required reports of misconduct to the Board.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 31, 2019, as **ARC 4560C**. A public hearing was held on August 21, 2019, at 1 p.m. in Room 3 Southwest, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waivers of the 30-day timeline are allowed because the timeline is required by statute pursuant to 2019 Iowa Acts, chapter 87.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 13, 2019.

The following rule-making action is adopted:

Amend rule 282—11.37(272) as follows:

282—11.37(272) Mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct. The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board any instance of disciplinary action taken against a person who holds a license, certificate, or authorization issued by the board for conduct that would constitute a violation of 282—subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b.” In addition, the board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person’s contract executed under Iowa Code sections 279.12, 279.13, 279.15 ~~through 279.21~~, 279.16, 279.18 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of 282—subparagraph 25.3(1)“b”(1), subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b,” when the board or reporting official has a good-faith belief that the incident occurred or the allegation is true.

11.37(1) Method of reporting. The report required by this rule may be made by completion and filing of the complaint form described in subrule 11.4(2) or by the submission of a letter to the executive director of the board which includes:

- a. ~~the~~ The full name, address, telephone number, title and signature of the reporter;
- b. ~~the~~ The full name, address, and telephone number of the person who holds a license, certificate or authorization issued by the board;
- c. ~~a~~ A concise statement of the circumstances under which the termination, nonrenewal, or resignation occurred;
- d. The date action was taken which necessitated the report, including the date of disciplinary action taken, nonrenewal or termination of a contract for reasons of alleged or actual misconduct, or resignation of a person following an incident or allegation of misconduct as required under Iowa Code section 272.15(1), or awareness of alleged misconduct as required under Iowa Code section 272.15(2); and
- e. ~~any~~ Any additional information or documentation which the reporter believes will be relevant to assessment of the report pursuant to subrule 11.37(4).

11.37(2) Timely reporting required. The report required by this rule shall be filed within ~~60~~ 30 days ~~of the date of local board action on the termination or resignation~~ of the date action was taken which necessitated the report or within 30 days of an employee becoming aware of the alleged misconduct under Iowa Code section 272.15(2).

11.37(3) Confidentiality of report. Information reported to the board in accordance with this rule is privileged and confidential, and, except as provided in Iowa Code section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline.

11.37(4) Action upon receipt of report.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

a. Upon receipt of a report under this rule, the executive director of the board shall review the information reported to determine whether a complaint investigation should be initiated.

b. In making this determination, the executive director shall consider the nature and seriousness of the reported misconduct in relation to the position sought or held, the time elapsed since the misconduct, the degree of rehabilitation, the likelihood that the individual will commit the same misconduct again, and the number of reported incidents of misconduct.

c. If the executive director determines a complaint should not be initiated, no further formal action will be taken and the matter will be closed.

d. If the executive director determines a complaint investigation should be initiated, the executive director shall assign the matter for investigation pursuant to rule 282—11.5(272).

11.37(5) *Proceedings upon investigation.* From the time of initiation of an investigation, the matter will be processed in the same manner as a complaint filed under rule 282—11.4(17A,272).

[Filed 9/18/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4700C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to gap tuition assistance program

The State Board of Education hereby amends Chapter 25, "Pathways for Academic Career and Employment Program; Gap Tuition Assistance Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 758, division II, sections 21 through 28.

Purpose and Summary

The amendments to Chapter 25 reflect changes enacted by 2019 Iowa Acts, House File 758. The Gap Tuition Assistance Program provides need-based tuition assistance to eligible applicants enrolled in approved noncredit training programs. These amendments allow community colleges to be more responsive to the needs of applicants and surrounding communities. Item 1 modifies one eligibility criterion, reducing the number of months for which an applicant is required to provide evidence of family income from six to three and adding a life-changing event as a qualifying eligibility factor. Item 2 changes several erroneous references to Division II of Chapter 25 to refer to Division III. Item 3 provides the community college discretion to approve an eligible applicant for funding in more than one eligible program. Item 4 provides greater flexibility in the assessment used to evaluate the skills and competencies of individuals applying for assistance. Item 5 provides explicit authority for the Iowa Department of Education, in consultation with the community colleges, to redistribute available funds to ensure efficient operation of the Gap Tuition Assistance Program, targeting regions with greater demand for services.

EDUCATION DEPARTMENT[281](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 3, 2019, as **ARC 4524C**. A public hearing was held on July 23, 2019, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on September 12, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

An agencywide waiver provision is provided in 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **25.21(1)“a”(1)** as follows:

(1) The applicant's family income for the ~~six~~ three months prior to the date of application, or documentation of a life-changing event.

ITEM 2. Strike “Division II” wherever it appears in paragraphs **25.21(2)“a,” “b,” “e,” and “f,”** rule **281—25.25(260I)**, and subrule **25.26(1)**, and insert “Division III” in lieu thereof.

ITEM 3. Amend paragraph **25.21(2)“d”** as follows:

~~d. An~~ At the discretion of the community college, an applicant shall not may be approved for tuition assistance under Division ~~II~~ III of this chapter for more than one eligible certificate program.

ITEM 4. Amend rule 281—25.24(260I) as follows:

281—25.24(260I) Initial assessment. An eligible applicant for tuition assistance under Division ~~II~~ III of this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant's readiness to complete an eligible certificate program. The assessment shall include ~~assessments for completion of a national career readiness certificate, including the areas of reading for information, applied and mathematics, and locating information. An applicant must achieve at least a national bronze-level certificate defined as a minimum level 3 for reading, mathematics, and locating information in order to be approved for tuition assistance~~ In assessing an applicant under this division, a community college shall use the national career readiness certificate, or an assessment eligible under the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and

EDUCATION DEPARTMENT[281](cont'd)

approved by the department for use in an adult education and literacy program. An applicant shall complete any additional assessments and occupation research required by the gap tuition assistance program or an eligible certificate program, or both.

ITEM 5. Adopt the following **new** rule 281—25.28(260I):

281—25.28(260I) Redistribution of funds. To ensure efficient delivery of services, the department, in consultation with the community colleges, may redistribute funds available to the community colleges for purposes of this division.

[Filed 9/13/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4701C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to authorized dispensers of pseudoephedrine products

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," and Chapter 100, "Iowa Real-Time Electronic Pseudoephedrine Tracking System," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124.212B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.212B.

Purpose and Summary

These amendments, developed with the approval of the Governor's Office of Drug Control Policy, identify all registered pharmacy employees as authorized dispensers of pseudoephedrine products.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 31, 2019, as **ARC 4570C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 10, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—10.34(124) as follows:

657—10.34(124) Dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription. A product containing ephedrine, pseudoephedrine, or phenylpropanolamine, which substance is a Schedule V controlled substance and is not listed in another controlled substance schedule, may be dispensed or administered without a prescription by a ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ an authorized dispenser pursuant to 657—Chapter 100 to a purchaser at retail pursuant to the conditions of this rule.

10.34(1) Who may dispense. Dispensing shall be by a ~~licensed Iowa pharmacist, by a registered pharmacist intern under the direct supervision of a pharmacist preceptor, or by a registered certified pharmacy technician under the direct supervision of a pharmacist,~~ except as authorized in an authorized dispenser pursuant to 657—Chapter 100. This subrule does not prohibit, after the ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by another pharmacy employee.

10.34(2) to 10.34(4) No change.

10.34(5) Identification. The ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser shall require every purchaser under this rule to present a current government-issued photo identification, including proof of age when appropriate. The ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser shall be responsible for verifying that the name on the identification matches the name provided by the purchaser and that the photo image depicts the purchaser.

10.34(6) Record. Purchase records shall be recorded in the real-time electronic pseudoephedrine tracking system (PTS) established and administered by the governor's office of drug control policy pursuant to 657—Chapter 100. If the PTS is unavailable for use, the purchase record shall be recorded in an alternate format and submitted to the PTS as provided in 657—subrule 100.3(4).

a. Alternate record contents. The alternate record shall contain the following:

(1) to (3) No change.

(4) The name or unique identification of the ~~pharmacist, pharmacist intern, or certified pharmacy technician~~ dispenser who approved the dispensing of the product.

b. and c. No change.

10.34(7) No change.

ITEM 2. Amend rule ~~657—100.2(124)~~, definition of “Dispenser,” as follows:

“Dispenser” means a licensed Iowa pharmacist, a registered pharmacist-intern under the direct supervision of a pharmacist preceptor, ~~or~~ a registered pharmacy technician under the direct supervision

PHARMACY BOARD[657](cont'd)

of a pharmacist, except as authorized in 657—Chapter 13, or a registered pharmacy support person under the direct supervision of a pharmacist.

ITEM 3. Amend rule 657—100.3(124) as follows:

657—100.3(124) Electronic pseudoephedrine tracking system (PTS). Unless granted an exemption by the office pursuant to these rules, all pharmacies dispensing products as defined in rule 657—100.2(124) without a prescription are required to participate in the PTS pursuant to Iowa Code section 124.212B.

100.3(1) Reporting elements. The record of a completed purchase or attempted purchase of a product without a prescription shall contain the following:

a. to *e.* No change.

f. The name or unique identification of the ~~pharmacist, pharmacist intern, or pharmacy technician dispenser~~ who approved the dispensing of the product.

100.3(2) No change.

100.3(3) Denial of transactions and overrides.

a. No change.

b. The PTS shall provide an override feature for use by a dispenser to allow completion of the sale. ~~For security purposes and to ensure the integrity of the PTS, use of the override feature shall be restricted to authorized dispensers and may not be delegated to a pharmacy technician trainee or a pharmacy support person.~~ A dispenser utilizing the override feature shall document the reason that, in the professional judgment of the dispenser, it is necessary to override the recommendation of the PTS to deny the transaction.

100.3(4) No change.

[Filed 9/11/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4702C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to physical therapy licensure and examination

The Board of Physical and Occupational Therapy hereby amends Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and chapter 148A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 147C, and 148A.

Purpose and Summary

These amendments update numerous approval processes for testing eligibility to make it feasible for the Board to participate in the Federation of State Boards of Physical Therapy's (Federation's) Alternative Approval Pathway initiative. These amendments include updates to the procedure for requesting special accommodations as well as clarification and score updates for foreign-trained applicants.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 31, 2019, as **ARC 4569C**. A public hearing was held on August 21, 2019, at 8 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

After publication of the Notice, the Board revised Item 7, which exempts foreign-trained applicants from taking the Test of English as a Foreign Language Internet-based test (TOEFL iBT test) when the applicant's physical therapy education was completed at a school where instruction, textbooks and transcript were in English. The revision removes the requirement for the foreign school to also be approved by the Commission on Accreditation in Physical Therapy Education. Item 7 was further revised to remove the language implementing the previously proposed minimum TOEFL iBT scores for 2020 because the Federation announced an indefinite delay on implementation of the new minimum scores. In addition, the hierarchy of the subrule in Item 7 was restructured for clarity.

Adoption of Rule Making

This rule making was adopted by the Board on September 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind subrule **200.2(6)**.

ITEM 2. Renumber subrules **200.2(7)** to **200.2(9)** as **200.2(6)** to **200.2(8)**.

ITEM 3. Amend subrule 200.4(3) as follows:

200.4(3) ~~Before the board may approve an applicant for testing beyond three attempts, an applicant shall demonstrate evidence satisfactory to the board of having successfully completed additional coursework.~~ The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 4. Rescind subrule **200.4(4)**.

ITEM 5. Renumber subrule **200.4(5)** as **200.4(4)**.

ITEM 6. Amend renumbered subrule 200.4(4) as follows:

200.4(4) Special accommodations. To eliminate discrimination and guarantee fairness under Title II of the Americans with Disabilities Act (ADA), an individual who has a qualifying disability may request an examination accommodation. The applicant must submit appropriate documentation to FSBPT.

~~a.—Disability requirements. An applicant is an individual who has a physical or mental impairment that substantially limits that individual in one or more major life activities, who has a record of such a physical or mental disability, or who is regarded as having such a physical or mental impairment.~~

~~(1) Physical impairment, as defined by the ADA, means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.~~

~~(2) Mental impairment, as defined by the ADA, means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.~~

~~b.—To be considered an impairment that limits a major life activity, the disability shall impair an activity that an average person can perform with little or no difficulty, for example, walking, seeing, hearing, speaking, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing, lifting, or reading.~~

~~c.—To verify the accommodation, the applicant must submit appropriate documentation that uses professionally recognized criteria; that details how the disability leads to functional limitations; and that illustrates how the limitation or limitations inhibit the individual from performing one or more major life activities.~~

~~d.—An evaluator shall on the documentation provide a signature, verify the diagnosis, verify the professionally recognized test/assessment, and recommend the accommodation. The evaluator shall be a licensed health care professional, including but not limited to a physician who practices in a field that includes, but may not be limited to, neurology, family practice, orthopedics, physical medical medicine and rehabilitation, and psychiatry; or a psychologist who performs evaluations to assess individuals for mental disorders that might impact those individuals' academic or testing performance.~~

~~e.—An accommodation shall not give the individual an unfair advantage over others taking the examination, shall not change the purpose of the examination, and shall not guarantee that the individual will pass the examination.~~

~~f.—The board and staff shall maintain confidentiality of all medical and diagnostic information and records.~~

ITEM 7. Amend subrule 200.5(2) as follows:

200.5(2) Foreign-trained applicants.

a. Foreign-trained applicants who do not hold a license in another state or U.S. territory shall:

~~a. (1) Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone (703)684-8406; website www.fcpt.org. The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant who does not hold a license in another state or territory of the United States and is applying for licensure by taking the examination should be evaluated using the most current version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Tool (CWT). The credentials of a foreign-educated physical therapist or physical therapist assistant who has been a licensed PT or PTA under the laws of another jurisdiction should be evaluated using the version of the FSBPT CWT that covers the date the applicant graduated from the applicant's respective physical therapist or physical therapist assistant education program. The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~b. (2)~~ Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language (~~IBT-TOEFL~~) Internet-based test (TOEFL iBT test) a total score of at least 89 on the ~~Internet-based TOEFL~~ TOEFL iBT test as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading ~~comprehension~~; and 18 in listening ~~comprehension~~. This ~~examination test~~ is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the ~~TOEFL examination~~ TOEFL iBT test. Applicants may be exempt from the ~~TOEFL examination~~ TOEFL iBT test when ~~the native language is English~~, physical therapy education was completed in a school approved by the Commission on Accreditation in Physical Therapy Education (CAPTE), where ~~the~~ language of instruction in physical therapy was English, the language of the textbooks was English, and the applicant's transcript was in English.

~~e. b.~~ ~~Submit an official statement from each country's or territory's board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed. Foreign-trained applicants who hold a license in another state or U.S. territory may apply for licensure by endorsement.~~

~~d.~~ ~~Receive a final determination from the board regarding the application for licensure.~~

ITEM 8. Amend subrule 200.7(1) as follows:

200.7(1) An applicant who has been a licensed PT or PTA under the laws of another jurisdiction state or U.S. territory shall file an application for licensure by endorsement with the board office. ~~The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who~~ by completing the following steps:

- ~~a.~~ Submits Submit to the board a completed application;
- ~~b.~~ Pays Pay the licensure fee;
- ~~c.~~ Shows Show evidence of licensure requirements that are similar to those required in Iowa;
- ~~d.~~ Submits Submit a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board;
- ~~e.~~ Submits Submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant;
- ~~f.~~ Provides Provide official copies of the academic transcripts sent directly from the school to the board; and

~~g.~~ Provides Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

ITEM 9. Rescind subrule **200.7(6)**.

[Filed 9/17/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4703C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed****Rule making related to organization of committees and councils**

The Public Health Department hereby amends Chapter 88, “Volunteer Health Care Provider Program,” Chapter 90, “Iowa Child Death Review Team,” Chapter 110, “Center for Rural Health and Primary Care,” Chapter 130, “Emergency Medical Services Advisory Council,” and Chapter 138, “Trauma System Advisory Council,” and rescinds Chapter 186, “Governmental Public Health Advisory Council,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 147A and 2019 Iowa Acts, House File 766, sections 66, 70, 72, 73, 74, 78, 82, and 84.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 147A and 2019 Iowa Acts, House File 766, sections 66, 70, 72, 73, 74, 78, 82, and 84.

Purpose and Summary

2019 Iowa Acts, House File 766, repeals the Iowa Code section that established the Iowa Collaborative Safety Net Provider Network. The amendments to Chapter 88 remove the definition for “specialty care referral network” because the network no longer exists (Item 1), amend the definition of “specialty health care provider office” to remove the reference to the Iowa Collaborative Safety Net Provider Network (Item 2), and rescind subrule 88.5(3) due to the elimination of the referenced specialty care referral network (Item 3).

2019 Iowa Acts, House File 766, section 82, amends Iowa Code section 135.43(2) to remove a sentence that stated, “The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their duties.” Item 4 of this rule making rescinds rule 641—90.7(135) related to expenses of the team members due to the removal of the underlying statutory authority.

2019 Iowa Acts, House File 766, section 70, removes the statutory authority for the establishment of an advisory committee to the Center for Rural Health and Primary Care. The amendments to Chapter 110 (Items 5 to 7) rescind the rules regarding the advisory committee’s definition, purpose, organization, and meetings. The amendments also remove the identification of the specific bureau in which the Center for Rural Health and Primary Care is located and instead only note that the center is located within the Department of Public Health.

2019 Iowa Acts, House File 766, section 84, removes the statutory requirement allowing for reimbursement of expenses for members of the Emergency Medical Services Advisory Council. Due to this change, expenses can no longer be paid. Item 8 removes the rule in Chapter 130 that describes which and at what rates expenses are reimbursed.

2019 Iowa Acts, House File 766, section 78, amends Iowa Code section 147A.24(2) to state that the Trauma System Advisory Council shall consist of seven members. Prior to this legislative change, each organization or entity named in Iowa Code section 147A.24(1) could be represented on the Council. The number of members was previously undefined and could be represented as high as the total number of organizations or entities named in that Iowa Code section. The amendment in Item 9 clarifies that the Director of the Department of Public Health shall select the seven members from the pool of nominated persons recommended by the listed organizations and entities.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

2019 Iowa Acts, House File 766, section 84, amends Iowa Code section 147A.3 to remove the ability to pay for advisory council member expenses. The amendment in Item 10 rescinds rule 641—138.9(147A) regarding expense reimbursement.

2019 Iowa Acts, House File 766, sections 72 through 74, remove all references to the Governmental Public Health Advisory Council from the Iowa Code, and House File 766 also removes the underlying statutory authority for Chapter 186. The amendment in Item 11 rescinds Chapter 186.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4539C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 11, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind the definition of "Specialty care referral network" in rule **641—88.2(135)**.

ITEM 2. Amend rule **641—88.2(135)**, definition of "Specialty health care provider office," as follows:

"Specialty health care provider office" means the private office or clinic of an individual specialty health care provider or a group of specialty health care providers as referred by the Iowa Collaborative Safety Net Provider Network established in Iowa Code section 135.153 but does not include a field dental clinic, a free clinic, or a hospital.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- ITEM 3. Rescind subrule **88.5(3)**.
- ITEM 4. Rescind and reserve rule **641—90.7(135)**.
- ITEM 5. Amend rule 641—110.1(135) as follows:

641—110.1(135) Purpose and scope. The following rules developed by the department of public health govern the organization of the center for rural health and primary care within ~~the bureau of oral and health delivery systems~~ of the department of public health.

ITEM 6. Rescind the definition of “Center for rural health and primary care advisory committee” in rule **641—110.2(135,135B)**.

ITEM 7. Rescind and reserve rules **641—110.4(135)** to **641—110.6(135)**.

ITEM 8. Rescind and reserve rule **641—130.7(147A)**.

ITEM 9. Amend rule 641—138.3(147A) as follows:

641—138.3(147A) Appointment and membership.

138.3(1) The seven members of the TSAC shall be appointed by the director from the recommendations of the organizations listed in subrule 138.3(4).

138.3(2) Appointments shall be for two-year staggered terms, which shall expire on June 30.

138.3(3) Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

138.3(4) Membership. The voting membership of the TSAC shall be comprised of ~~one representative nominated~~ seven members, appointed by the director, who are selected from the pool of individuals recommended from each of the following organizations or entities:

- a. American Academy of Pediatrics.
- b. American College of Emergency Physicians, Iowa chapter.
- c. American College of Surgeons, Iowa chapter.
- d. Department of public health.
- e. Governor’s traffic safety bureau.
- f. Iowa Academy of Family Physicians.
- g. Iowa Emergency Medical Services Association.
- h. Iowa Emergency Nurses Association.
- i. Iowa Hospital Association representing rural hospitals.
- j. Iowa Hospital Association representing urban hospitals.
- k. Iowa Medical Society.
- l. Iowa Osteopathic Medical Society.
- m. Iowa Physician Assistant Society.
- n. Iowa Society of Anesthesiologists.
- o. Orthopedic System Advisory Council of the American Academy of Orthopedic Surgeons, Iowa representative.
- p. Rehabilitation services delivery representative.
- q. Iowa’s Medicare quality improvement organization.
- r. State medical examiner.
- s. Trauma nurse coordinator representing a trauma registry hospital.
- t. University of Iowa, Injury Prevention Research Center.

138.3(5) Absences.

a. Three unexcused absences in a 12-month period shall be grounds for the director to ~~request nomination of~~ consider an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson of the TSAC shall be charged with providing notification of absences to the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 10. Rescind and reserve rule **641—138.9(147A)**.

ITEM 11. Rescind and reserve **641—Chapter 186**.

[Filed 9/11/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4704C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to mandatory reporter training

The Public Health Department hereby rescinds Chapter 93, "Mandatory Reporter Training Curricula," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2019 Iowa Acts, House File 731, section 1.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 731, section 1.

Purpose and Summary

2019 Iowa Acts, House File 731, section 1, strikes Iowa Code section 135.11(24). This action removes the statutory authority for the Department of Public Health to approve the curricula for child and dependent adult abuse mandatory reporter training. Therefore, this rule making action rescinds Chapter 93.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4538C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 11, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance provisions contained in 641—Chapter 178.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making action is adopted:

Rescind and reserve **641—Chapter 93**.

[Filed 9/11/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4705C

PUBLIC HEALTH DEPARTMENT[641]**Adopted and Filed****Rule making related to interagency coordinating council for the state medical examiner**

The Public Health Department hereby amends Chapter 124, "Interagency Coordinating Council for the State Medical Examiner," and rescinds Chapter 125, "Advisory Council for the State Medical Examiner," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 691.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 691 and 2019 Iowa Acts, House File 766.

Purpose and Summary

2019 Iowa Acts, House File 766, sections 76 and 77, combine most of the duties and members of the Advisory Council for the State Medical Examiner into the Interagency Coordinating Council for the State Medical Examiner. The amendments to Chapter 124 incorporate the duties and members of the Advisory Council for the State Medical Examiner into the Interagency Coordinating Council for the State Medical Examiner as prescribed in House File 766. The rescission of Chapter 125 removes the obsolete rules pertaining to the eliminated Advisory Council for the State Medical Examiner.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4540C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 11, 2019.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—124.1(691) as follows:

641—124.1(691) Purpose. ~~The purpose~~ purposes of the interagency coordinating council for the state medical examiner ~~is to~~ are to provide guidance concerning medicolegal death investigation for the state of Iowa, facilitate optimal relationships between the state and county medical examiners and other agencies involved in death investigation, and provide a venue for both the exchange of information vital to the continued operations of the Iowa office of the state medical examiner and the effective coordination of the functions and operations of the office of the state medical examiner with the needs and interests of the department of public safety and the department of public health, with input and guidance from the governor's office and other council members.

ITEM 2. Amend rule 641—124.2(691) as follows:

641—124.2(691) Membership. Members shall include ~~the~~ representatives from agencies and organizations that are directly involved with the office of the state medical examiner and medicolegal death investigation in the state of Iowa.

124.2(1) The interagency coordinating council for the state medical examiner members shall include the following:

- a. The chief state medical examiner or, when the state medical examiner is not available, the deputy state medical examiner, ~~the~~;
- b. The commissioner of public safety or the commissioner's designee, ~~the~~;
- c. The director of public health or the director's designee, ~~and the~~;
- d. The governor or the governor's designee;
- e. A representative from the office of the attorney general;
- f. A representative from the Iowa County Attorneys Association;
- g. A representative from the Iowa Medical Society;
- h. A representative from the Iowa Association of Pathologists;
- i. A representative from the Iowa Association of County Medical Examiners;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

j. A representative from the statewide emergency medical system; and

k. A representative from the Iowa Funeral Directors Association.

124.2(2) Each specific organization listed in paragraphs 124.2(2)“e” through “k” shall designate a representative to serve on the coordinating council. Representatives shall be approved by the state medical examiner in consultation with the director of public health.

124.2(3) The state medical examiner may invite representatives from other relevant organizations to provide specific insights to a particular issue, as needed.

ITEM 3. Amend rule 641—124.4(691) as follows:

641—124.4(691) Duties. The interagency coordinating council shall ~~perform~~ do all of the following duties:

124.4(1) Advise and consult with the state medical examiner on a range of issues affecting the organization and functions of the office of the state medical examiner and the effectiveness of the medical examiner system in the state.

~~124.4(1) 124.4(2) Provide a venue to coordinate~~ Advise the state medical examiner concerning the assurance of effective coordination of the functions and operations of the office of the state medical examiner with the department of public safety and the department of public health in order to better serve the needs of the citizens of Iowa.

124.4(3) Provide information to council members regarding the current operations and functions of the office of the state medical examiner.

~~124.4(2) 124.4(4)~~ Provide to and receive from the governor’s office updated information relevant to the mission of the state medical examiner’s office.

~~124.4(3) 124.4(5)~~ Discuss legislative and budgetary decisions that may impact the functions and operations of one, two, or all three agencies any agency or member entity represented by the interagency coordinating council.

124.4(6) Elicit council members’ suggestions and recommendations to improve the overall operations of the office of the state medical examiner.

ITEM 4. Rescind and reserve **641—Chapter 125.**

[Filed 9/11/19, effective 11/13/19]

[Published 10/9/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4706C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

**Rule making related to mandatory reporter training
and treatment programs in correctional facilities**

The Public Health Department hereby amends Chapter 155, “Licensure Standards for Substance Use Disorder and Problem Gambling Treatment Programs,” and rescinds Chapter 156, “Licensure Standards for Substance Abuse Treatment Programs in Correctional Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 125.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 125.13 and 2019 Iowa Acts, House File 731.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Purpose and Summary

These amendments increase the frequency of training for mandatory child abuse and dependent adult abuse reporters from once every five years to once every three years. Additional amendments include separating the child abuse identification and reporting training from the dependent adult abuse identification and reporting training with which it is currently combined. Each training is required to be of two hours' duration. If the person receiving training completes one hour of additional child abuse identification and reporting training and one hour of additional dependent adult abuse identification and reporting training prior to the expiration period, the person shall be deemed in compliance with the training requirements for an additional three years. The amendments permit an employer of a staff person subject to the training requirements to provide supplemental training in addition to the core training. There is a transition provision for persons who received the child abuse or dependent adult abuse identification and reporting training certificate prior to July 1, 2019.

Chapter 156 is rescinded since substance abuse treatment is no longer being provided in correctional institutions. Community-based correctional facilities continue to provide licensed substance use disorder treatment services and currently adhere to Chapter 156. Following the rescission of Chapter 156, any community-based correctional facility providing substance use disorder treatment services will be required to adhere to Chapter 155.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4541C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on September 11, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend paragraph **155.21(9)“d”** as follows:

d. A staff person providing screening, OWI evaluation, assessment or treatment in accordance with this chapter shall complete two hours of ~~training on child abuse~~ child abuse identification and reporting of child abuse training and two hours of dependent adult abuse identification and reporting training within six months of initial employment and at least two hours of additional child abuse identification and reporting training and two hours of additional dependent adult abuse identification and reporting training every ~~five~~ three years thereafter. If the staff person completes at least one hour of additional child abuse identification and reporting training and one hour of additional dependent adult abuse identification and reporting training prior to the three-year expiration period, the staff person shall be deemed in compliance with the training requirements for an additional three years. An employer of a staff person subject to these requirements may provide supplemental training, specific to identification and reporting of child abuse or dependent adult abuse as it relates to the person’s professional practice, in addition to the core training provided. A training certificate relating to the identification and reporting of child abuse or dependent adult abuse issued prior to July 1, 2019, remains effective and continues in effect as issued for the five-year period following its issuance.

ITEM 2. Rescind and reserve **641—Chapter 156**.

[Filed 9/11/19, effective 11/13/19]

[Published 10/9/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4707C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Rule making related to appraiser qualification criteria

The Real Estate Appraiser Examining Board hereby amends Chapter 1, “Organization and Administration,” Chapter 5, “Certified Residential Real Property Appraiser,” Chapter 6, “Certified General Real Property Appraiser,” and Chapter 15, “Supervisor Responsibilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 543D.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D.

Purpose and Summary

The Board adopted the Appraisal Foundation’s Appraiser Qualifications Board 2018 Real Property Appraiser Qualification Criteria (AQB 2018 Real Property Criteria) on January 9, 2019, through **ARC 4006C** and **ARC 4169C**. **ARC 4006C** and **ARC 4169C** neglected to amend Chapter 1, which references the minimum required experience hours and length of time to gain the experience hours. These amendments fix the inaccurate statements based on the previously adopted rules. This rule making also amends the language to be in compliance with minimum standards of the AQB 2018 Real Property Criteria. The AQB 2018 Real Property Criteria updated the minimum requirements necessary to become an appraiser or act as a supervisory appraiser. The AQB 2018 Real Property Criteria reduced the minimum number of required hours of qualifying experience from 2,500 hours to 1,500 hours for residential appraisers. The criteria also reduced the time frame in which experience must be gained from 24 months to 12 months for certified residential appraisers and from 30 months to 18 months

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

for certified general appraisers. Other changes made within the AQB 2018 Real Property Criteria include lower requirements for collegiate experience for certified residential appraisers. The cap on demonstration reports and the limit related to supervision of associates or trainees were required by the AQB 2018 Real Property Criteria and previous version, but were never explicitly stated in the Board's rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 31, 2019, as **ARC 4567C**. A public hearing was held on August 20, 2019, at 8:30 a.m. in the Small Conference Room, Third Floor, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 18, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.20(2) as follows:

1.20(2) Summary of certification requirements. As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, ~~2,500~~ 1,500 hours of qualifying experience in a minimum of ~~24~~ 12 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of ~~30~~ 18 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

ITEM 2. Amend subrule 5.6(2) as follows:

5.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals. Experience gained for work without a traditional client (i.e., a client hiring an appraiser for a business purpose), for example a demonstration appraisal, cannot exceed 50 percent of the total experience requirement.

ITEM 3. Amend subrule 6.6(2) as follows:

6.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals. Experience gained for work without a traditional client (i.e., a client hiring an appraiser for a business purpose), for example a demonstration appraisal, cannot exceed 50 percent of the total experience requirement.

ITEM 4. Amend subrule 15.3(1) as follows:

15.3(1) A supervisory appraiser shall:

- a. No change.
- b. Have a maximum of three associates or trainees, regardless of the jurisdiction in which the associate or trainee is registered or performs appraisal services, and shall register with the board the name, office address and starting date of each associate, as well as any termination dates (voluntary or involuntary).
- c. to e. No change.

[Filed 9/19/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4708C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Rule making related to licensure, discipline, and appeals

The Real Estate Appraiser Examining Board hereby amends Chapter 21, "Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support, Student Loan, or State Debt," and Chapter 25, "Public Records and Fair Information Practices," and adopts new Chapter 26, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Military Service Members," Chapter 27, "Impaired Licensee Review Committee and Impaired Licensee Recovery Program," Chapter 28, "Social Security Numbers and Proof of Legal Presence," and Chapter 29, "Vendor Appeals," Iowa Administrative Code.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 543D.5 and 543D.23.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D; 2019 Iowa Acts, House File 288; and 2019 Iowa Acts, Senate File 304.

Purpose and Summary

These amendments and new chapters implement changes required by 2019 Iowa Acts, House File 288, providing for expedited licensure for spouses of active duty members of the military forces of the United States, and 2019 Iowa Acts, Senate File 304, prohibiting the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. Additionally, these amendments and new chapters continue efforts to ensure the Board's rules adequately reflect the Board's recent relocation from the Professional Licensing and Regulation Bureau to the Division of Banking by incorporating additional standard agency and licensing board chapters.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 31, 2019, as **ARC 4566C**. A public hearing was held on August 20, 2019, at 9:30 a.m. in the Small Conference Room, Third Floor, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. No public comments were received. Three changes from the Notice were made for clarification. The words "military service" were added before "applicant" in subrules 26.2(2) and 26.2(3) and the words "by the stay" were added in subrule 29.3(7).

Adoption of Rule Making

This rule making was adopted by the Board on September 18, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Effective Date

This rule making will become effective on November 13, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **193F—Chapter 21**, title, as follows:

DENIAL OF ISSUANCE OR RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE FOR NONPAYMENT OF CHILD SUPPORT, ~~STUDENT LOAN~~, OR STATE DEBT

ITEM 2. Rescind rule 193F—21.2(261) and adopt the following **new** rule in lieu thereof:

193F—21.2(272C) Prohibited grounds for discipline. The board shall not suspend or revoke a license issued by the board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

ITEM 3. Amend **193F—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 252J, 272C, and 272D ~~and sections 261.126 and 261.127.~~

ITEM 4. Amend subrule 25.8(4) as follows:

25.8(4) Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services; and the centralized collection unit of the department of revenue for state debt, and college student aid commission for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code chapters 252J and 272D ~~and sections 261.126 and 261.127.~~

ITEM 5. Amend **193F—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 22, 252J and ~~261~~ 272C.

ITEM 6. Adopt the following **new** 193F—Chapter 26:

CHAPTER 26

MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY
MILITARY SERVICE MEMBERS**193F—26.1(272C) Definitions.**

“*License*” or “*licensure*” means any certification or registration that may be granted by the board.

“*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); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“*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 an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

193F—26.2(272C) 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 board office.

26.2(1) The application may be submitted with an application for licensure or examination or prior to an applicant’s applying for licensure or to take an examination. No fee is required for submission of an application for military service credit.

26.2(2) The military service applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

26.2(3) The military service applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

26.2(4) Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

26.2(5) The board shall grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

26.2(6) The board 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.

26.2(7) A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193F—Chapter 20 shall apply, 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.

26.2(8) The board shall grant or deny 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 board grants the military service application. If the board does not grant 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.

193F—26.3(272C) Veteran and spouse of active duty military service member reciprocity.

26.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this rule shall be given priority and shall be expedited.

26.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or spouse of an active duty member of the military forces of the United States.

26.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure. Generally, given federal mandates, the requirements to become certified as a real estate appraiser are substantially the same nationwide.

26.3(4) The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

26.3(5) If the board determines that the licensing requirements in the jurisdiction in which the applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

26.3(6) An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193F—Chapter 20 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement Iowa Code chapters 543D and 272C and 2019 Iowa Acts, House File 288.

ITEM 7. Adopt the following new 193F—Chapter 27:

CHAPTER 27
IMPAIRED LICENSEE REVIEW COMMITTEE
AND IMPAIRED LICENSEE RECOVERY PROGRAM

193F—27.1(272C) Impaired licensee review committee. Pursuant to the authority of Iowa Code section 272C.3(1)"k," the board may establish an impaired licensee review committee.

27.1(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 recovery 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 registered associate or certified real property appraiser.

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“*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.

27.1(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.

27.1(3) Composition of the committee. The chairperson of the board shall appoint the members of the committee for that board. The membership of the committee includes, but is not limited to:

- a. One licensee member who is a certified real property appraiser with 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 similar impairment-related treatment programs.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of commerce, if deemed in the best interest of the licensee or the public.

27.1(4) Eligibility. To be eligible for participation in the impaired licensee recovery program, a licensee must meet all of the following criteria:

- a. The licensee must 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 must not have engaged in the unlawful diversion or distribution of controlled substances or illegal substances;
- c. At the time of the self-report, the licensee must not already be 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 shall not prevent the board from making a referral when deemed in the best interest of the licensee and the public;
- d. The licensee must not have caused harm or injury to a client;
- e. The licensee must not have 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 must have provided truthful information and fully cooperated with the board or committee.

27.1(5) Meetings. The committee shall meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

27.1(6) Terms of participation. A licensee shall agree to comply with the terms for participation in the impaired licensee recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period shall be established by the committee and communicated to the licensee in writing.

27.1(7) Noncompliance. Failure to comply with the provisions of the agreement shall require the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

27.1(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 required 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 shall refer the licensee to the board for appropriate action.

27.1(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 fail to successfully complete the impaired licensee recovery program. Participation in the program under the auspices of the committee shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the

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statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action. A violation of a contract is a ground for licensee discipline.

27.1(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 shall not be disclosed to the public. Participation in the impaired licensee recovery program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

ITEM 8. Adopt the following new 193F—Chapter 28:

CHAPTER 28
SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE

193F—28.1(543D) Purpose. This chapter outlines a uniform 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 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.

193F—28.2(543D) Applicability.

28.2(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. If requested, submission of evidence will be required once.

28.2(2) Applicants and licensees residing in the United States other than those described in subrule 28.2(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.

28.2(3) Evidence shall not be required by foreign national applicants or licensees who are not physically present in the United States.

193F—28.3(543D) Acceptable evidence. The board shall accept as proof of lawful presence in the United States documents generally considered acceptable documentation for purposes of establishing a U.S. place of birth, indicating U.S. citizenship, or establishing alien status. The board 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 required unless a question arises concerning the documentation submitted.

193F—28.4(252J,261,272D,543D) Social security number disclosure.

28.4(1) An individual applying for a license from the board shall 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.

28.4(2) An applicant who does not possess a social security number and is not eligible for a social security number will be required 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 shall disclose

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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 543D.

ITEM 9. Adopt the following new 193F—Chapter 29:

CHAPTER 29
VENDOR APPEALS

193F—29.1(543D) Purpose. This chapter outlines a uniform process for vendor appeals. The process shall be 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.

193F—29.2(543D) 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 must be received by the board within the time frame specified to be considered timely. The notice of appeal must state the vendor's complete legal name, street address, telephone number, email address and the specific grounds upon which the vendor challenges the board's award, including legal authority, if any. The notice of appeal commences a contested case.

193F—29.3(543D) Procedures for vendor appeals. The board's chapter governing contested cases shall be applicable, except as otherwise provided in these rules.

29.3(1) Upon receipt of a notice of vendor appeal, the board shall 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 shall be sent to the email address provided by the appellant unless the appellant specifically requests that notice be mailed or sent by certified mail. Hearing shall be held within 60 days of the date the notice of appeal was received by the board.

29.3(2) All hearings shall be open to the public.

29.3(3) Discovery requests, if any, must 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.

29.3(4) At least three business days prior to the hearing, the parties shall exchange witness and exhibit lists. The parties shall 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.

29.3(5) The hearing, at the option of the board or administrative law judge, may be conducted in person, by telephone, or on the Iowa communications network. When the hearing is not conducted in person, all exhibits must be delivered to the board or administrative law judge no less than two business days prior to the hearing.

29.3(6) Oral proceedings shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand shall bear the costs. Copies of tapes of oral proceedings or transcripts of certified shorthand reporters shall be paid for by the requester.

29.3(7) Any party appealing the issuance of a notice of award may petition for stay of the award pending the appeal's review. The petition shall be filed with the notice of appeal and shall 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 by the stay. 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.

29.3(8) The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6) and any other relevant procedural documents regardless of their form.

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29.3(9) The board or administrative law judge may request the parties to submit proposed findings and conclusions or briefs.

29.3(10) Any request for continuance must be in writing, specifying the grounds, and filed no later than seven business days prior to hearing.

29.3(11) Requests for rehearing shall be made to the board within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, when new evidence is available, when an obvious mistake is corrected, or when the decision is not necessary to exhaust administrative remedies.

29.3(12) The board's final decision may be reviewed by or appealed to the superintendent within 20 days of the board's decision in accordance with 193F—subrule 17.2(3). Appealing the board's final decision to the superintendent is a prerequisite to seeking judicial review, and failure to do so shall constitute a failure to exhaust administrative remedies and preclude judicial review. Following such intra-agency appeal, judicial review may be sought in accordance with the contested case provisions of Iowa Code section 17A.19.

193F—29.4(543D) Procedures for board referral to an administrative law judge. The board, in its discretion, may refer a vendor appeal to the department of inspections and appeals for hearing before a qualified administrative law judge. The hearing procedures set forth in rule 193F—29.3(543D) and the board's rules governing contested cases shall be substantially the same, but the ruling of an administrative law judge acting as the sole presiding officer shall constitute a proposed decision. Board review of a proposed decision shall be according to Iowa Code section 17A.15(2) and this chapter and shall be subsequently appealable to the superintendent for purposes of interagency appeal and exhaustion. Nothing in this rule shall prevent the board from hearing a vendor appeal with the assistance of an administrative law judge. This rule merely authorizes an alternative procedure.

29.4(1) The proposed decision shall 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.

29.4(2) Notice of an appeal for review of a proposed decision or notice of the board's own review shall 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 shall be mailed by the submitting party to all other parties to the proceeding. The board's executive officer shall notify the parties if oral argument will be heard and shall specify whether oral argument will be heard in person, by telephone or on the Iowa communications network. The executive officer shall 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.

29.4(3) Failure to appeal a proposed decision will constitute a failure to exhaust administrative remedies and preclude judicial review.

29.4(4) Review of a proposed decision shall be based on the record and limited to the issues raised in the hearing. The issues shall be specified in the notice of appeal of a proposed decision. The party requesting the review shall be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.

29.4(5) Each party shall 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.

29.4(6) The board shall not receive any additional evidence unless the board grants an application to present additional evidence. Any such application must be filed by a party no fewer than five business days in advance of oral argument. Additional evidence shall be allowed only upon a showing that the evidence is material to the outcome and that there were good reasons for failure to present the evidence at hearing. If an application to present additional evidence is granted, the board shall order the conditions under which the evidence shall be presented.

29.4(7) The board's final decision shall be in writing and may incorporate all or part of the proposed decision.

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193F—29.5(543D) Procedures for review by superintendent in first instance. The board or superintendent may elect to have the superintendent serve as the final decision maker in the first instance or review a proposed decision of an administrative law judge as the final decision maker. In either case, the procedures set forth in this chapter shall be substantially the same, but further review by the superintendent shall not be required to exhaust administrative remedies or as a prerequisite to judicial review.

These rules are intended to implement Iowa Code section 543D.23.

[Filed 9/19/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.

ARC 4709C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to planning and reporting for rate-regulated utilities

The Utilities Board hereby rescinds Chapter 35, "Energy Efficiency Planning and Cost Review," and adopts a new Chapter 35, "Energy Efficiency and Demand Response Planning and Reporting for Natural Gas and Electric Utilities Required to Be Rate-Regulated," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 476.2 and 476.6(15).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2 and 476.6(15).

Purpose and Summary

The Board reviewed Chapter 35 as part of its five-year comprehensive review in accordance with Iowa Code section 17A.7(2). The purpose of the comprehensive review is to identify and update rules that are outdated, redundant, or inconsistent with statutes or other administrative rules. During the course of the Board's comprehensive review of Chapter 35 and the promulgation of this rule making, the Legislature passed and the Governor signed legislation (2018 Iowa Acts, chapter 1135 and 2019 Iowa Acts, chapter 89, section 39) amending the energy efficiency provisions of Iowa Code chapter 476.

The Board issued an order adopting rule making on September 9, 2019. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0018.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 13, 2019, as **ARC 4285C**. An oral presentation was held on March 13, 2019, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

At the oral presentation, participating stakeholders requested the Board hold a workshop. On April 26, 2019, the Board held a workshop and issued an order allowing for the submission of additional written comments.

Following publication of the Notice of Intended Action, the Board received written comments from Interstate Power and Light Company, the Iowa Business Energy Coalition, Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, MidAmerican Energy Company, the Environmental Law and Policy Center and the Iowa Environmental Council, and the Large Energy Group.

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The Board made a number of changes from the Notice, most of which were made either at the request of stakeholders or to ensure consistency with Iowa Code chapter 476 as amended. The majority of changes were shared with stakeholders, and stakeholders were provided opportunities to comment on the changes prior to adoption. In rules 199—35.3(476), 199—35.4(476), 199—35.6(476), 199—35.7(476), 199—35.9(476), and 199—35.10(476), the Board made minor clarifying changes to provide for greater internal consistency and to make the rules easier to read and understand. In rule 199—35.2(476), the Board added definitions for “annual Iowa retail rate revenue,” “economic potential,” “energy savings performance standards,” and “non-energy benefits,” and made minor changes to other definitions at the request of stakeholders or to improve clarity. Based on stakeholder consensus, in rule 199—35.5(476), the Board reinserted a number of provisions, which are contained in current Chapter 35 and which the Board had proposed to delete (e.g., the electric utility provisions in current rule 199—35.9(476) have been inserted in paragraph 35.5(4)“m,” the natural gas provisions in current rule 199—35.10(476) have been inserted in paragraph 35.5(4)“n,” and the pilot program provisions of current subrule 35.8(10) have been inserted in paragraph 35.5(4)“h”). Finally, in rule 199—35.11(476), the Board added a clause at the end of subrules 35.11(1) and 35.11(2) providing that a prudence review may be based on discovery conducted in review of a utility’s annual reports.

After reviewing the stakeholder comments and the legislative amendments, the Board rescinds current Chapter 35 and adopts a new Chapter 35 that reflects changes made to ensure consistency with Iowa Code chapter 476 as amended and other Board administrative rules.

Adoption of Rule Making

This rule making was adopted by the Board on September 9, 2019.

Fiscal Impact

Because the amendments update existing rules in light of statutory changes, it is anticipated that this rule making will have no fiscal impact.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. 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 rule making will become effective on November 13, 2019.

The following rule-making action is adopted:

UTILITIES DIVISION[199](cont'd)

Rescind 199—Chapter 35 and adopt the following **new** chapter in lieu thereof:

CHAPTER 35

ENERGY EFFICIENCY AND DEMAND RESPONSE PLANNING AND REPORTING FOR NATURAL GAS AND ELECTRIC UTILITIES REQUIRED TO BE RATE-REGULATED

199—35.1(476) Authority and purpose. These rules are intended to implement Iowa Code sections 476.6(13) and 476.6(15) relating to the energy efficiency and demand response plans and reports filed by the natural gas and electric utilities required by statute to be rate-regulated. The purpose of these rules is to establish requirements for energy efficiency and demand response plans, modifications, prudence reviews, and cost-recovery tariffs.

199—35.2(476) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

“Annual Iowa retail rate revenue” means the utility’s expected revenue forecast based on customer growth rate, usage per customer, volumes, margin rate, customer charge rate, and the cost of generation or fuel.

“Assessment of potential” means development of cost-effective energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings and considering market factors including, but not limited to, the effects of rate impacts, the need to capture lost opportunities, the non-energy benefits of measures, and the strategic value of energy efficiency and demand response to the utility.

“Avoided cost” means the cost the utility would have to pay to provide energy and capacity from alternative sources of supply available to utilities as calculated pursuant to subparagraphs 35.5(4) “m”(7) and 35.5(4) “n”(4).

“Cost-effectiveness tests” means one of the five acceptable economic tests used to compare the present value of applicable benefits to the present value of applicable costs of an energy efficiency or demand response program or plan. The tests are the participant test, the ratepayer impact test, the societal test, the total resource cost test, and the utility cost test. A program or plan passes a cost-effectiveness test if the cost-effectiveness ratio is equal to or greater than one.

“Customer incentive” means an amount or amounts provided to or on behalf of customers for the purpose of having customers participate in energy efficiency programs. Incentives include, but are not limited to, rebates, loan subsidies, payments to dealers, rate credits, bill credits, the cost of energy audits, the cost of equipment given to customers, and the cost of installing such equipment. Customer incentives do not include the cost of information provided by the utility, nor do they include customers’ bill reductions associated with reduced energy usage due to the implementation of energy efficiency programs. For the purposes of energy efficiency pricing strategies, “incentive” means the difference between a customer’s bill on an energy efficiency customized rate and the customer’s bill on a traditional rate considering factors such as the elasticity of demand.

“Demand response” means changes in a customer’s consumption pattern in response to changes in the price of electricity over time, or in response to incentive payments to induce reduced consumption during periods of high wholesale prices or when system reliability is jeopardized.

“Economic potential” means the energy and capacity savings that result in future years when measures are adopted or applied by customers at the time it is economical to do so. For purposes of this chapter, economic potential may be determined by comparing the utility’s avoided cost savings to the incremental cost of the measure.

“Energy efficiency measures” means activities on the customers’ side of the meter which reduce customers’ energy use or demand including, but not limited to, end-use efficiency improvements or pricing strategies.

“Energy savings performance standards” means those standards which shall be cost-effectively achieved, with the exception of programs for qualified low-income persons, tree-planting programs,

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educational programs, and assessments of consumers' needs for information to make effective choices regarding energy use and energy efficiency, and includes the annual capacity savings stated either in kilowatt per day (kW/day) or in dekatherm per day (dth/day) or in thousand cubic feet per day (Mcf/day) and the annual energy savings stated in either kilowatt hour (kWh) or dth or Mcf.

"Free riders" means program participants who would have implemented energy efficiency measures or practices even without the program.

"Marginal energy cost" means the cost associated with supplying the next Mcf or dth of natural gas for a natural gas utility and the energy or fuel cost associated with generating or purchasing the next kWh of electricity for an electric utility.

"Market effects" means a change in the structure of a market or the behavior of participants in a market that is reflective of an increase (or decrease) in the adoption of energy-efficient products, services, or practices and is related to market intervention(s) (e.g., programs).

"Net benefits" means the present value of benefits less the present value of costs as defined in the cost-effectiveness test.

"Non-energy benefits" means the many and diverse benefits produced by energy efficiency in addition to energy and demand savings as used and applied in the Iowa Technical Reference Manual. The beneficiaries of these benefits can be utility systems, participants and society.

"Participant test" means an economic test used to compare the present value of benefits to the present value of costs over the useful life of an energy efficiency or demand response measure or program from the participant's perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the energy efficiency or demand response measure or program is targeted. Benefits are the sum of the present values of the customers' bill reductions, tax credits, non-energy benefits and customer incentives for each year of the useful life of an energy efficiency or demand response measure or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer's time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the measure or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

"Persistence of energy savings" means the savings due to changed operating hours, human behavior, interactive factors, and the degradation in equipment efficiency over the life of the measure compared to the baseline.

"Process-oriented industrial assessment" means an analysis which promotes the adoption of energy efficiency measures by examining the facilities, operations and equipment of an industrial customer in which energy efficiency opportunities may be embedded.

"Ratepayer impact test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from a rate level or utility bill perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains due to the energy efficiency or demand response measure or program for each year of the useful life of the measure or program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the energy efficiency or demand response measures, utility program costs, and customer incentives for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility costing periods.

"Societal test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from a societal perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average shall be calculated using the most recent 12 months at the time the utility calculates its cost-effectiveness tests for its energy efficiency or demand response plan. Benefits are the sum of the present values of the utility avoided supply, non-energy benefits, and energy costs including the effects of externalities. Costs are the sum

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of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

“Spillover (free drivers)” means the reduction in energy consumption or demand, or the reduction in both, caused by the presence of an energy efficiency or demand response program, beyond the program-related gross savings of the participants and without financial or technical assistance from the program. The term “free drivers” may be used for individuals who have spillover effects.

“Take-back effect” means a tendency to increase energy use in a facility, or for an appliance, as a result of increased efficiency of energy use. For example, a customer’s installation of high-efficiency light bulbs and the subsequent longer operation of lights constitutes “taking back” some of the energy otherwise saved by the efficient lighting.

“Total resource cost test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from a resource perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average shall be calculated using the most recent 12 months at the time the utility calculates its cost-effectiveness tests for its energy efficiency or demand response plan. Benefits are the sum of the present values of the utility avoided supply, energy costs, non-energy benefits, and federal tax credits. Costs are the sum of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

“Useful life” means the number of years an energy efficiency measure will produce benefits.

“Utility cost test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from the utility revenue requirement perspective. Present values are calculated using the utility’s discount rate. Benefits are the sum of the present values of each year’s utility avoided capacity, non-energy benefits, and energy costs (excluding the externality factor) over the useful life of the measure or program. Costs are the sum of the present values of the utility’s program costs, customer incentives, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

199—35.3(476) Energy efficiency and demand response plan filing.

35.3(1) Each electric and natural gas utility shall file a five-year energy efficiency plan. Each electric utility shall file a five-year demand response plan. Combination electric and natural gas utilities may file combined assessments of potential and energy efficiency and demand response plans. Combined plans shall separately specify which energy efficiency programs and costs are attributable to the electric operation, which are attributable to the natural gas operation, and which are attributable to both. If a combination utility files separate plans, the board may consolidate the plans for purposes of review and hearing.

35.3(2) Written notice of the energy efficiency and demand response plans. No more than 62 days prior to filing its energy efficiency and demand response plans, a utility shall deliver a written notice of its plan filing to all affected customers. The notice shall be submitted to the board for approval not less than 45 days prior to the proposed notification of customers. Additional information not related to the energy efficiency and demand response plans shall be kept to a minimum and shall not distract from the required content. The form of the notice, once approved by the board, may not be altered except to include the rate and bill impact dollars and percentages. The type size and quality shall be easily legible. The notice shall, at a minimum, include the following elements:

a. A statement that the utility will be filing energy efficiency and demand response plans with the board.

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b. A brief identification of the proposed energy efficiency and demand response programs, a description of benefits and savings associated with the energy efficiency and demand response plans, and the estimated annual cost of the proposed energy efficiency and demand response programs during the five-year budget time frame.

c. The estimated annual rate and bill impacts of the proposed energy efficiency and demand response plans on each class of customer, and the estimated annual jurisdictional rate impact for each major customer grouping in dollars and as a percentage, with the proposed actual increases to be filed at the time of notice to customers. The utility may represent the estimated annual rate and bill impact dollars and percentages with blank spaces; however, the board may require the utility to submit additional information necessary for review of the proposed form of notice. A copy of the notice with the final annual rate and bill impact dollars and percentages shall be filed with the board at the time of customer notification.

d. A statement that the board will be conducting a contested case proceeding to review the application and that a customer may file comments in the board's electronic filing system.

e. The telephone numbers, websites, email addresses, and mailing addresses of the utility, the board, and the consumer advocate, for the customer to contact with questions.

199—35.4(476) Assessment of potential and collaboration.

35.4(1) *Assessment of potential.* The utility shall conduct an assessment of potential study to determine the cost-effective energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility's assessment shall address the potential energy and capacity savings in each of ten years subsequent to the year the assessment is filed. Economic and impact analyses of measures shall address benefits and costs over the entire estimated useful lives of energy efficiency measures.

35.4(2) *Collaboration.* A utility shall offer interested persons the opportunity to participate in the development of its energy efficiency and demand response plans. At a minimum, a utility shall provide the opportunity for interested persons to offer suggestions for programs and for the assessment of potential and to review and comment on a draft of the assessment of potential and energy efficiency and demand response plans proposed to be submitted by the utility. The utility may analyze proposals from participants to help determine the effects of the proposals on its plan. A participant shall have the responsibility to provide sufficient supporting information to enable the utility to analyze the participant's proposal. The opportunity to participate shall commence at least 180 days prior to the date the utility submits its energy efficiency and demand response plans and assessment of potential to the board.

199—35.5(476) Energy efficiency and demand response plan requirements.

35.5(1) The utility shall file with the board an energy efficiency plan listing all proposed energy efficiency programs. An electric utility shall file a demand response plan listing all proposed demand response programs.

35.5(2) The utility's energy efficiency and demand response plans shall be supported by testimony, exhibits, and workpapers including Microsoft Excel or similar software versions of exhibits and workpapers. The testimony, exhibits, and workpapers shall be filed in compliance with the board's filing standards located on the board's electronic filing website.

35.5(3) A utility's plan shall include a range of programs which address all customer classes across its Iowa jurisdictional territory. At a minimum, the plan shall include a program for qualified low-income residential customers, including a cooperative program with any community action agency, as defined and listed on the Iowa department of human rights website, within the utility's service area to implement countywide or communitywide energy efficiency programs for qualified low-income persons. The utility shall consider including in its plan a program for tree-planting, educational programming, and assessments of consumers' needs for information to make effective choices regarding energy use and energy efficiency.

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35.5(4) The following information shall be provided by the utility with its energy efficiency and demand response plan:

a. A summary of the energy efficiency and demand response plans and results of the assessment of potential written in a nontechnical style for the benefit of the general public.

b. The assessment of potential study.

c. Cost-effectiveness test analysis.

(1) The utility shall analyze cost-effectiveness for the plan as a whole and for each proposed program, using the total resource cost, societal, utility cost, and ratepayer impact and participant tests. If the utility uses a test other than the societal test as the criterion for determining cost-effectiveness of utility implementation of energy efficiency measures, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test. The utility shall describe and justify the level or levels of cost-effectiveness, if greater or less than a cost-effectiveness ratio of 1.0, to be used as a threshold for determining cost-effectiveness of programs. The utility's threshold of cost-effectiveness for its plan as a whole shall be a cost-effectiveness ratio of 1.0 or greater.

(2) The utility's analyses shall use inputs or factors reasonably expected to influence cost-effective implementation of programs, including escalation rates and avoided costs for each cost and benefit component of the cost-effectiveness test, to reflect changes over the useful lives of the programs.

(3) The utility shall provide the analyses, assumptions, inputs, and results of cost-effectiveness tests, including the cost-effectiveness ratios and net benefits, for the plans as a whole and for each program. Low-income, tree-planting, educational programs, and assessments of consumers' needs for information to make effective choices regarding energy use and energy efficiency shall not be tested for cost-effectiveness unless the utility wishes to present the results of cost-effectiveness tests for informational purposes.

d. Descriptions of each program. If a proposed program is identical to an existing program, the utility may reference the program description currently in effect. A description of each proposed program shall include:

(1) The name of the program.

(2) The customers the program targets.

(3) The energy efficiency or demand response measures promoted by the program.

(4) The proposed utility promotional techniques, including the rebates or incentives offered through the program.

(5) The proposed rates of program participation or implementation of measures, including both eligible and estimated actual participants.

e. The estimated annual energy and demand savings for the plan and each program for each year the program is promoted by the plan. The utility shall estimate gross and net capacity and energy savings, accounting for free riders, take-back effects, spillover (free drivers), market effects, and persistence of energy savings.

f. The budget for the plan and for each program for each year of implementation or for each of the next five years of implementation, whichever is less, itemized by proposed costs. The budget shall be consistent with the accounting plan required pursuant to subrule 35.9(1). The budget may include amounts collected pursuant to Iowa Code section 476.10A. The requirements of paragraphs "f" and "g" shall not apply to any energy efficiency plan or demand response plan approved as of March 31, 2019, or modified under rule 199—35.10(476) during the five-year term of such plan.

g. The plan and program budgets, which shall be categorized into:

(1) Overhead, which consists of:

1. Planning and design costs, which include internal and third-party expenses associated with program development, design for new programs, modifications to existing programs, the assessment of potential, and the Iowa Technical Reference Manual.

2. Administrative costs, which include internal and third-party expenses associated with program implementation and support functions such as: fully loaded utility labor costs; office supplies and

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technology costs associated with program operations and delivery; program implementation costs; and labor costs for vendors required for successful operation and implementation of programs.

3. Advertising and promotional costs, which include internal and third-party labor and materials expenses associated with program-specific marketing and training and demonstration aimed at promoting energy efficiency awareness or the programs included in a utility's plan. Advertising which is part of an approved energy efficiency or demand response plan is deemed to be advertising required by the board for purposes of Iowa Code section 476.18(3).

4. Monitoring and evaluation costs, which include internal and third-party expenses associated with ongoing program review, prepayment verification inspections, and evaluation, measurement and verification required to be completed at least once during the five-year plan.

5. Education costs, which include internal and third-party labor and material expenses associated with program-specific or general energy efficiency education.

6. Miscellaneous costs, which are all other costs related to the implementation of the plan which are not attributable to any other cost category.

(2) Incentives, which consist of:

1. Customer incentives, which are utility contributions provided to participants, such as rebates, direct-install measures, energy audits, energy efficiency kits, and low-income weatherization. This includes nonrebate contributions to participants, such as loan subsidies, payments to dealers, rate credits, and bill credits.

2. Equipment costs, which include program-specific costs associated with hardware purchased by the utility and given to customers to facilitate the customer's participation in the program.

3. Installation costs, which include internal and third-party labor associated with installation or replacement of equipment provided to participants, such as the installation of direct-install measures or load control devices.

Cost categories shall be further described by the following subcategories: classifications of persons to be working on energy efficiency and demand response programs, full-time equivalents, dollar amounts of labor costs, and the name of outside firm(s) employed and a description of service(s) to be provided.

h. A description of a pilot project as a program, if the pilot project is justified by the utility. Pilot projects shall explore areas of innovative or unproven approaches, as provided in Iowa Code section 476.1. The proposed evaluation procedures for the pilot program shall be included.

i. The rate impacts and average bill impacts, by customer class, resulting from the plan.

j. The utility's forecasted electric or natural gas or electric and natural gas annual Iowa retail rate revenue for each of the five plan years. The utility shall identify all adjustments and eliminations to its revenue forecasts, and identify the Federal Energy Regulatory Commission (FERC) accounts used to develop its forecasts.

k. A monitoring and evaluation plan. The utility shall describe how it proposes to monitor and evaluate the implementation of its proposed programs and plan and shall show how it will accumulate and validate the information needed to measure the plan's performance against the standards. The utility shall include a timeline that outlines each phase of the monitoring and evaluation plan. The utility shall propose a format for monitoring reports and describe how annual results will be reported to the board on a detailed, accurate and timely basis.

l. A summary of collaborative efforts and a summary of collaboration participants' suggestions, utility responses to the suggestions, and specific reasons for including or declining to include the suggestions in the utility's energy efficiency or demand response plans.

m. These additional requirements for electric utilities:

(1) Load forecast. Information specifying forecasted demand and energy use on a calendar-year basis, which shall include:

1. A statement, in numerical terms, of the utility's current 20-year forecasts including reserve margin for summer and winter peak demand and for annual energy requirements. The forecasts shall not include the effects of the proposed programs in paragraph 35.5(4) "d," but shall include the effects to date of current ongoing utility energy efficiency programs.

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2. The date and amount of the utility's highest peak demand within the past five years, stated on both an actual and a weather-normalized basis. The utility shall include an explanation of the weather-normalization procedure.

3. A comparison of the forecasts made for each of the previous five years to the actual and weather-normalized demand in each of the previous five years.

4. An explanation of all significant methods and data used, as well as assumptions made, in the current 20-year forecast. The utility shall file all forecasts of variables used in its demand and energy forecasts and shall separately identify all sources of variables used, such as implicit price deflator, electricity prices by customer class, gross domestic product, sales by customer class, number of customers by class, fuel price forecasts for each fuel type, and other inputs.

5. A statement of the margin of error for each assumption or forecast.

6. An explanation of the results of sensitivity analyses performed, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts and data. The utility may present the results and an explanation of other methods of assessing forecast uncertainty.

(2) Class load data. Load data for each class of customer that is served under a separate rate schedule or is identified as a separate customer class and accounts for 10 percent or more of the utility's demand in kW at the time of the monthly system peak for every month in the year. If those figures are not available, the data shall be provided for each class of customer that accounts for 10 percent of the utility's electric sales in kWh for any month in the reporting period. The data shall be based on a sample metering of customers that is designed to achieve a statistically expected accuracy of plus or minus 10 percent at the 90 percent confidence level for loads during the yearly system peak hour(s). These data must appear in all filings, except as provided for in numbered paragraph 35.5(4) "m"(2)"3."

1. The following information shall be provided for each month of the previous year:

- Total system class maximum demand (in kW), number of customers in the class, and system class sales (in kWh);
- Jurisdictional class contribution (in kW) to the monthly maximum system coincident demand as allocated to jurisdiction;
- Total class contribution (in kW) to the monthly maximum system coincident demand, if not previously reported;
- Total system class maximum demand (in kW) allocated to jurisdiction, if not previously reported; and
- Hourly total system class loads for a typical weekday, a typical weekend day, the day of the class maximum demand, and the day of the system peak.

2. The company shall file an explanation, with all supporting workpapers and source documents, as to how class maximum demand and class contribution to the maximum system coincident demand were allocated to jurisdiction.

3. The load data for each class of customer described above may be gathered by a multijurisdictional utility on a uniform integrated system basis rather than on a jurisdictional basis. Adjustments for substantive and unique jurisdictional characteristics, if any, may be proposed. The load data for each class of customer shall be collected continuously and filed annually, except for the period associated with necessary interruptions during any year to modify existing or implement new data collection methods. Data filed for the period of interruption shall be estimated. An explanation of the estimation technique shall be filed with the data. To the extent consistent with sound sampling and the required accuracy standards, an electric public utility is not required to annually change the customers being sampled.

(3) Existing capacity and firm commitments. Information specifying the existing generating capacity and firm commitments to provide service. The utility shall include in its filing a copy of its most recent load and capability report submitted to Midcontinent Independent System Operator, Inc. (MISO).

1. For each generating unit owned or leased by the utility, in whole or in part, the energy efficiency and demand response plan shall include the following information:

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- Both summer and winter net generating capability ratings as reported to the North American Electric Reliability Corporation (NERC).
 - The estimated remaining time before the unit will be retired or require life extension.
2. For each commitment to own or lease future generating firm capacity, the plan shall include the following information:
 - The type of generating capacity.
 - The anticipated in-service year of the capacity.
 - The anticipated life of the generating capacity.
 - Both summer and winter net generating capability ratings as reported to the NERC.
 3. For each capacity purchase commitment which is for a period of six months or longer, the plan shall include the following information:
 - The entity with whom commitments have been made and the time periods for each commitment.
 - The capacity levels in each year for the commitment.
 4. For each capacity sale commitment which is for a period of six months or longer, the plan shall include the following information:
 - The entity with whom a commitment has been made and the time periods for the commitment.
 - The capacity levels in each year.
 - The capacity payments to be received per kW per year in each year.
 - The energy payments to be received per kWh per year.
 - Any other payments the utility receives in each year.
- (4) Capacity surpluses and shortfalls. Information identifying projected capacity surpluses and shortfalls over the 20-year planning horizon, which shall include:
1. A numerical and graphical representation of the utility's 20-year planning horizon comparing forecasted demand in each year from subparagraph 35.5(4) "m"(1) to committed capacity in each year from numbered paragraphs 35.5(4) "m"(3)"1" to 35.5(4) "m"(3)"4." Forecasted peak demand shall include reserve requirements.
 2. For each year of the 20-year planning horizon, the plan shall list in megawatts (MW) the amount by which committed capacity either exceeds or falls below the forecasted demand.
- (5) Capacity outside the utility's system. Information about capacity outside of the utility's system that could meet its future needs including, but not limited to, cogeneration and independent power producers, expected to be available to the utility during each of the 20 years in the planning horizon. The utility shall include in its filing a copy of its most recent load and capability report submitted to MISO.
- (6) Future supply options and costs. Information about future supply options and their costs identified by the utility as the most effective means of satisfying all projected capacity shortfalls in the 20-year planning horizon in subparagraph 35.5(4) "m"(4), which shall include:
1. The following information which describes each future supply option as applicable:
 - The anticipated year the supply option would be needed.
 - The anticipated type of supply option, by fuel.
 - The anticipated net capacity of the supply option.
 2. The utility shall use the actual capacity cost of any capacity purchase identified in numbered paragraph 35.5(4) "m"(6)"1" and shall provide the anticipated annual cost per net kW per year.
 3. The utility shall use the installed cost of a combustion turbine as a proxy for the capacity cost of any power plant identified in numbered paragraph 35.5(4) "m"(6)"1." For the first power plant option specified in numbered paragraph 35.5(4) "m"(6)"1," the following information shall be provided:
 - The anticipated life.
 - The anticipated total capital costs per net kW, including allowance for funds used during construction (AFUDC) if applicable.
 - The anticipated revenue requirement of the capital costs per net kW per year.
 - The anticipated revenue requirement of the annual fixed operations and maintenance costs, including property taxes, per net kW for each year of the 20-year planning horizon.
 - The anticipated net present value of the revenue requirements per net kW.

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- The anticipated revenue requirement per net kW per year calculated by utilization of an economic carrying charge.
- The after-tax discount rate used to calculate the revenue requirement per net kW per year over the life of the supply option.
- Adjustment rates (for example, inflation or escalation rates) used to derive each future cost in numbered paragraph 35.5(4) "m"(6)"3."

4. The capacity costs of the new supply options allocated to costing periods. The utility shall describe its method of allocating capacity costs to costing periods. The utility shall specify the hours, days, and weeks which constitute its costing periods. For each supply option identified in numbered paragraph 35.5(4) "m"(6)"1," the plan shall include:

- The anticipated annual cost per net kW per year of capacity purchases from numbered paragraph 35.5(4) "m"(6)"2" allocated to each costing period if it is the highest cost supply option in that year.
- The anticipated total revenue requirement per net kW per year from numbered paragraph 35.5(4) "m"(6)"3" allocated to each costing period if it is the highest cost supply option in that year.

(7) Avoided capacity and energy costs. Avoided capacity costs shall be based on the future supply option with the highest value for each year in the 20-year planning horizon identified in numbered paragraph 35.5(4) "m"(6). Avoided energy costs shall be based on the marginal costs of the utility's generating units or purchases. The utility shall use the same costing periods identified in numbered paragraph 35.5(4) "m"(6)"2" when calculating avoided capacity and energy costs. A party may submit, and the board shall consider, alternative avoided capacity and energy costs derived by an alternative method. A party submitting alternative avoided costs shall also submit an explanation of the alternative method.

1. Avoided capacity costs. Calculations of avoided capacity costs in each costing period shall be based on the following formula:

$$\text{AVOIDED CAPACITY COST} = C \times (1 + \text{RM}) \times (1 + \text{DLF}) \times (1 + \text{EF})$$

C (capacity) is the greater of NC or RC.

NC (new capacity) is the value of future capacity purchase costs or future capacity costs expressed in dollars per net kW per year of the utility's new supply options from numbered paragraphs 35.5(4) "m"(6)"2" and "3" in each costing period.

RC (resalable capacity) is the value of existing capacity expressed in dollars per net kW per year that could be sold to other parties in each costing period.

RM (reserve margin) is the generation reserve margin criterion adopted by the utility.

DLF (demand loss factor) is the system demand loss factor expressed as a fraction of the net power generated, purchased, or interchanged in each costing period. For example, the peak system demand loss factor would be equal to peak system power loss (MW) divided by the net system peak load (MW) for each costing period.

EF (externality factor) is a 10 percent factor applied to avoided capacity costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must document the factor's accuracy.

2. Avoided energy costs. Calculations of avoided energy costs in each costing period shall be based on the following formula:

$$\text{AVOIDED ENERGY COSTS} = \text{MEC} \times (1 + \text{ELF}) \times (1 + \text{EF})$$

MEC (marginal energy cost) is the marginal energy cost expressed in dollars per kWh, inclusive of variable operations and maintenance costs, for electricity in each costing period.

ELF (system energy loss factor) is the system energy loss factor expressed as a fraction of net energy generated, purchased, or interchanged in each costing period.

EF (externality factor) is a 10 percent factor applied to avoided energy costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must submit documentation of the factor's accuracy.

n. Additional requirements for natural gas utilities:

(1) Forecast of demand and transportation volumes. Information specifying the natural gas utility's demand and transportation volume forecasts, which includes:

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1. A statement in numerical terms of the utility's current 12-month and five-year forecasts of total annual throughput and peak day demand, including reserve margin, based on the purchased gas adjustment (PGA) year by customer class. The forecasts shall not include the effects of the proposed energy efficiency programs in paragraph 35.5(4)"d," but shall include the effects to date of current ongoing utility energy efficiency programs.

2. A statement in numerical terms of the utility's highest peak day demand and annual throughput for the past five years by customer class.

3. A comparison of the forecasts made for the preceding five years to the actual and weather-normalized peak day demand and annual throughput by customer class, including an explanation of the weather-normalization procedure.

4. A forecast of the utility's demand for transportation volume for both peak day demand and annual throughput for each of the next five years.

5. The existing contract deliverability by supplier, contract and rate schedule for the length of each contract.

6. An explanation of all significant methods and data used, as well as assumptions made, in the current five-year forecast(s). The utility shall file all forecasts of variables used in its demand and energy forecasts. If variables are not forecasted, the utility shall indicate all sources of variable inputs.

7. A statement of the margin of error for each assumption or forecast.

8. An explanation of the results of the sensitivity analysis performed by the utility, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts, and data.

(2) Capacity surpluses and shortfalls. Information identifying projected capacity surpluses and shortfalls over the five-year planning horizon, which includes a numerical and graphical representation of the utility's five-year planning horizon comparing forecasted peak day demand in each year from numbered paragraph 35.5(4)"n"(1)"1" to the total of existing contract deliverability, from numbered paragraph 35.5(4)"n"(1)"5." The comparison shall list in dth or Mcf any amount for any year that contract deliverability falls below the forecast of peak day demand. Forecasted peak day demand shall include reserve margin.

(3) Supply options. Information about new supply options identified by the utility as the most effective means of satisfying all projected capacity shortfall in the 12-month and five-year planning horizons in subparagraph 35.5(4)"n"(2). For each supply option identified, the plan shall include:

1. The year the option would be needed.
2. The type of option.
3. The net peak day capacity.
4. The estimated future capacity costs per dth or Mcf of peak day demand of the options.
5. The estimated future energy costs per dth or Mcf of each option in current dollars.
6. A description of the method used to estimate future costs.

(4) Natural gas avoided capacity and energy costs. Information regarding avoided costs shall specify the days and weeks which constitute the utility's peak and off-peak periods. Avoided costs shall be calculated for the peak and off-peak periods and adjusted for inflation to derive an annual avoided cost over a 20-year period. In addition, all parties may submit information specifying the hours, days, and weeks which constitute alternative costing periods. A party may submit, and the board shall consider, alternative avoided capacity and energy costs derived by an alternative method. A party submitting alternative avoided cost methodology shall also submit an explanation of the alternative method.

1. Avoided capacity costs. Calculations of avoided capacity costs in the peak and off-peak periods shall be based on the following formula:

$$\text{AVOIDED CAPACITY COSTS} = [(D + OC) \times (1 + RM)] \times (1 + EF)$$

D (demand) is the greater of CD or FD.

CD (current demand cost) is the utility's average demand cost expressed in dollars per dth or Mcf during peak and off-peak periods.

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FD (future demand costs) is the utility's average future demand cost over the 20-year period expressed in dollars per dth or Mcf when supplying natural gas during peak and off-peak periods.

RM (reserve margin) is the reserve margin adopted by the utility.

OC (other cost) is the value of any other costs per dth or Mcf related to the acquisition of natural gas supply or transportation by the utility over the 20-year period in the peak and off-peak periods.

EF (externality factor) is a 7.5 percent factor applied to avoided capacity costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must submit documentation of the factor's accuracy.

2. Avoided energy costs. Calculations of avoided energy costs in the peak and off-peak periods on a seasonal basis shall be based on the following formula:

$$\text{AVOIDED ENERGY COSTS} = (E + \text{VOM}) \times (1 + \text{EF})$$

E (energy costs) is the greater of ME or FE.

ME (current marginal energy costs) is the utility's current marginal energy costs expressed in dollars per dth or Mcf during peak and off-peak periods.

FE (future energy costs) is the utility's average future energy costs over the 20-year period expressed in dollars per dth or Mcf during peak and off-peak periods.

VOM (variable operations and maintenance costs) is the utility's average variable operations and maintenance costs over the 20-year period expressed in dollars per dth or Mcf during peak and off-peak periods.

EF (externality factor) is a 7.5 percent factor applied to avoided energy costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must submit documentation of the factor's accuracy.

199—35.6(476) Contested case proceeding.

35.6(1) The board shall conduct a contested case proceeding for the purpose of developing specific capacity and energy savings performance standards for each utility required to be rate-regulated and reviewing energy efficiency and demand response plans and budgets designed to achieve those savings.

35.6(2) Within 30 days after filing, each application for approval of an energy efficiency and demand response plan that is submitted with the information and supporting documentation required by this chapter, and complies with the filing requirements of 199—Chapter 14, shall be docketed as a contested case proceeding. The Iowa economic development authority shall be considered a party to the proceeding. The proceeding shall follow the applicable provisions of 199—Chapter 7.

35.6(3) The board shall not require or allow a natural gas utility to adopt an energy efficiency plan that results in projected cumulative average annual costs that exceed 1.5 percent of the natural gas utility's expected annual Iowa retail rate revenue, shall not require or allow an electric utility to adopt an energy efficiency plan that results in projected cumulative average annual costs that exceed 2 percent of the electric utility's expected annual Iowa retail rate revenue, and shall not require or allow an electric utility to adopt a demand response plan that results in projected cumulative average annual costs that exceed 2 percent of the electric utility's expected annual Iowa retail rate revenue. With the filing of its application for approval of its energy efficiency plan, each utility shall provide, for the board's review, a calculation of the percent of the utility's expected annual Iowa retail rate revenue, which the utility shall determine by dividing the total projected budget for the five-year plan by the total projected Iowa retail rate revenues for the five-year plan period. The calculation of a utility's percent of Iowa retail rate revenue may be subject to confidential treatment under Iowa Code chapters 22 and 550 upon request of the utility and as determined by the board based on the board's review of such request.

199—35.7(476) Exemptions from participation.

35.7(1) The utility shall allow customers to request exemption from participating in the utility's electric energy efficiency plan if the combined ratepayer impact test for the utility's approved five-year electric energy efficiency and demand response plan is less than 1.0. The utility shall file a draft customer notice within 20 days following the board's approval of the utility's five-year energy efficiency plan. The form of the notice, once approved by the board, may not be altered except to include the rate and bill

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impact dollars and percentages. The type size and quality shall be easily legible. The notice shall, at a minimum, provide the following elements:

a. A brief statement informing all customers that they are eligible to request an exemption from participation in the utility's electric energy efficiency plan.

b. The estimated annual rate and bill impacts of the approved electric energy efficiency plan on each class of customers and an estimate of the annual jurisdictional rate impact for each major customer grouping in dollars and as a percentage, with the proposed actual increases to be filed at the time of notice to customers. The utility may represent the estimated annual rate and bill impact dollars and percentages with blank spaces; however, the board may require the utility to submit additional information necessary for review of the proposed form of notice. A copy of the notice with the final annual rate and bill impact dollars and percentages shall be filed with the board at the time of customer notification.

c. A statement that customers requesting to be exempt from participation in the electric energy efficiency plan will not be eligible to participate in any utility-sponsored electric energy efficiency programs and will not be eligible to receive rebates from the utility for electric energy efficiency programs during the five-year plan cycle, beginning January 1 of the first year of the five-year plan cycle.

d. An explanation that customers requesting to be exempt from participation in the electric energy efficiency plan will no longer be assessed the energy efficiency cost recovery factor for the electric energy efficiency programs on their utility bills.

e. An explanation that customers requesting to be exempt from participation in the electric energy efficiency plan will be eligible to participate in demand response and natural gas energy efficiency programs and will be assessed costs related to those programs on their utility bills.

f. A statement that the exemption from participation in the electric energy efficiency plan is applicable for the five-year plan cycle. The ability to request an exemption from participation in future electric energy efficiency plans will depend on the specifics of the utility's energy efficiency plan and demand response plan filing as approved by the board.

g. The utility's telephone number, website address, and email address the customer should use to request an exemption from participation in the electric energy efficiency plan.

h. A deadline by which customers must request an exemption. The deadline shall not be less than 30 days from the date of the notice.

35.7(2) The utility shall deliver the approved notice to all affected customers within 30 days of the board approving the notice.

199—35.8(476) Annual reporting requirements. Each utility shall file by May 1 of each year an energy efficiency annual report which shall include the utility's energy efficiency and demand response spending compared to the approved budgets, actual demand and energy savings compared to the performance standards approved by the board, cost-effectiveness results for the prior calendar year, the results of any monitoring and verification activities, any additional information pertinent to the implementation or performance of the energy efficiency or demand response plan for the previous calendar year such as changes in outside firms used to implement energy efficiency programs, updates on pilot projects, and other information as required by board order.

199—35.9(476) Energy efficiency and demand response cost recovery. Each utility shall be allowed to recover the authorized energy efficiency and demand response plan expenditures adjusted for any overcollections or undercollections calculated on an annual basis. The utility may propose to recover the portion of the costs of process-oriented industrial assessments related to energy efficiency.

35.9(1) Accounting for costs. Each utility shall maintain accounting plans and procedures to account for all energy efficiency and demand response costs.

a. Each utility shall maintain a subaccount system, work order system, or accounting system which identifies individual costs by each program.

b. Each utility shall maintain accurate employee, equipment, material, and other records which identify all amounts related to each individual energy efficiency or demand response program.

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35.9(2) Automatic adjustment mechanism. Each utility shall file by June 1 of each year energy efficiency and demand response costs proposed to be recovered in rates for the 12-month recovery period beginning at the start of the first utility billing month at least 30 days following board approval.

35.9(3) Energy efficiency cost recovery (EECR) and demand response cost recovery (DRCR) factors. Each utility shall calculate an EECR factor to recover the costs associated with the energy efficiency plan, and each electric utility shall also calculate a DRCR factor to recover costs associated with the demand response plan. The utility shall calculate EECR/DRCR factors separately for each customer classification or grouping previously approved by the board. A utility shall not use customer classifications or allocations of indirect or other related costs, other than those previously approved by the board, without filing for a modification of the energy efficiency and demand response plan and receiving board approval. Each utility may elect to file its first EECR and DRCR factors up to 120 days after November 13, 2019.

a. EECR/DRCR factors shall be calculated according to the following formula:

$$\text{EECR/DRCR factor} = \frac{\text{authorized recovery} + \text{overcollection/undercollection}}{\text{annual sales units}}$$

b. EECR/DRCR factor is the energy efficiency or demand response recovery amount per unit of sales.

c. Authorized recovery is the difference between the actual energy efficiency or demand response expenditures by customer class for the previous calendar year and the approved energy efficiency or demand response budget by customer class for the previous calendar year plus the approved energy efficiency or demand response budget by customer class for the current calendar year.

d. Overcollection or undercollection is the actual amount recovered by customer class for the previous recovery period less the amount authorized to be recovered by customer class for the previous recovery period. This may also include adjustments ordered by the board in prudence reviews.

e. Annual sales units are the estimated sales for the 12-month recovery period for customers who have not requested an exemption as allowed by rule 199—35.7(476).

35.9(4) Filing requirements. Each utility proposing to recover energy efficiency or demand response costs through an automatic adjustment mechanism shall provide the following information:

a. The filing shall restate the derivation of each EECR/DRCR factor previously approved by the board.

b. The filing shall include new EECR/DRCR factors based on allocation methods and customer classifications and groupings approved by the board in previous proceedings.

c. The filing shall include all worksheets and detailed supporting data used to determine new EECR/DRCR factors. Information already on file with the board may be incorporated by reference in the filing.

d. The filing shall include a reconciliation comparing the amounts actually collected by the previous EECR/DRCR factors to the amounts expended. Overcollection or undercollection shall be used to compute adjustment factors.

e. If the board has determined in a prudence review that previously recovered energy efficiency or demand response costs were imprudently incurred, adjustment factors shall include reductions for these amounts.

35.9(5) Tariff sheets. Upon approval of the new EECR/DRCR factors, the utility shall file separate tariff sheets for board approval to implement the EECR/DRCR factors in the utility's rates.

35.9(6) Customers' bills.

a. Each electric and natural gas utility shall include the EECR factor, the customer's usage, and the dollar amount charge on the customer's bill. Customers who receive one bill for electric and natural gas service shall have a separate line item on the bill for the electric EECR and the natural gas EECR.

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b. Each electric utility shall represent the DRCR factor, the customer's usage, and the dollar amount charge on the customer's bill.

199—35.10(476) Modification of an approved plan.

35.10(1) An approved energy efficiency plan or an approved demand response plan and associated budget may be modified if the modification is approved by the board.

a. Electric utilities may request a modification to an approved energy efficiency plan due to changes in the funding as a result of customers requesting exemptions from the electric energy efficiency plan.

b. Natural gas and electric utilities may request modification of an approved energy efficiency plan, or electric utilities may request modification of an approved demand response plan, for any reason.

c. The board, on its own motion, may consider modification of the energy efficiency or demand response plan and budget.

35.10(2) All applications to modify shall be filed in the same docket in which the energy efficiency or demand response plan was approved. All parties to the docket in which the energy efficiency or demand response plan was approved shall be served copies of the application to modify and shall have 14 days to file an objection or agreement. Objections should be specifically related to the contents of the modification. Failure to file timely objection shall be deemed agreement.

35.10(3) Each application to modify an approved energy efficiency or demand response plan shall include:

- a.* A statement of the proposed modification and the party's interest in the modification.
- b.* An analysis supporting the requested modification.
- c.* An estimated implementation schedule for the modification.
- d.* A statement of the effect of the modification on attainment of the utility's performance standards and on projected results, including cost-effectiveness, of the utility's implementation of its plan.

35.10(4) If the board finds that any reasonable grounds exist to investigate the proposed modification, a procedural schedule shall be set and the board shall take action within 90 days after the modification request is filed.

35.10(5) If an application to modify is filed and the board finds that there is no reason to investigate, then the board shall issue an order within 90 days after the modification request is filed stating the reasons for the board's decision relating to the application.

35.10(6) If the board rejects or modifies a utility's plan, the board may require the utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

199—35.11(476) Prudence review.

35.11(1) The board shall periodically conduct a contested case proceeding to evaluate the reasonableness and prudence of the utility's implementation of energy efficiency and demand response plans and budgets. The prudence review shall be based upon the information filed by a utility in the annual report required by rule 199—35.8(476), or based on discovery conducted in review of the annual reports.

35.11(2) The consumer advocate or another person may request the board to conduct a prudence review based upon the information filed by a utility in the annual report required by rule 199—35.8(476), or based on discovery conducted in review of the annual reports. The request to initiate the prudence review shall identify specific issues to be evaluated and may include a proposed procedural schedule.

35.11(3) The board shall determine whether a contested case proceeding is necessary to address the issues raised in a request for a prudence review.

35.11(4) Disallowance of past costs. If the board finds the utility did not take all reasonable and prudent actions to cost-effectively implement its energy efficiency or demand response programs, the board shall determine the amount in excess of those costs that would have been incurred under reasonable and prudent implementation. That amount shall be deducted from the next EECR/DRCR factors calculated pursuant to subrule 35.9(3) until the disallowed costs have been satisfied.

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199—35.12(476) New structure energy conservation standards. A utility providing natural gas or electric service shall not provide service to any structure completed after April 1, 1984, unless the owner or builder of the structure has certified to the utility that the building conforms to the energy conservation requirements adopted under 661—Chapter 303. If this compliance is already being certified to a state or local agency, a copy of that certification shall be provided to the utility. If no state or local agency is monitoring compliance with these energy conservation standards, the owner or builder shall certify that the structure complies with the standards by signing a form provided by the utility. No certification will be required for structures that are not governed by 661—Chapter 303.

These rules are intended to implement Iowa Code section 476.6.

[Filed 9/10/19, effective 11/13/19]

[Published 10/9/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/9/19.