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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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2017

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 15, 2017	December 6, 2017
13	Wednesday, November 29, 2017	December 20, 2017
14	Wednesday, December 13, 2017	January 3, 2018

PLEASE NOTE:

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

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

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

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Organic certification, amendments to ch 47 IAB 10/25/17 ARC 3403C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 14, 2017 2 p.m.
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LABOR SERVICES DIVISION[875]

OSHA civil penalty structure, amendments to ch 3 IAB 10/25/17 ARC 3415C	150 Des Moines St. Des Moines, Iowa	November 16, 2017 1:30 p.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Licensure procedures for hearing aid specialists, amendments to chs 121 to 124 IAB 10/25/17 ARC 3409C	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 15, 2017 1:30 to 2 p.m.
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Physical therapists and physical therapist assistants, occupational therapists and occupational therapy assistants—telehealth visits, 201.3, 208.3 IAB 11/8/17 ARC 3435C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 28, 2017 8 to 8:30 a.m.
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Social workers—licensure, continuing education, practice, discipline, 280.1, 280.3(1), 280.5(4), 280.6, 280.9(2), 281.2, 281.3, 282.2, 283.2 IAB 11/8/17 ARC 3433C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 28, 2017 8:30 to 9 a.m.
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Speech pathologists and audiologists—licensure, continuing education, discipline, amendments to chs 300, 303, 304 IAB 10/25/17 ARC 3410C	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 15, 2017 1 to 1:30 p.m.
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PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Public sector collective bargaining, amend chs 1, 2, 4, 6 to 8, 11, 16; adopt ch 5 IAB 10/25/17 ARC 3405C	Starkweather Conference Room Vocational Rehabilitation Offices 510 E. 12th St. Des Moines, Iowa	November 14, 2017 2 p.m.
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PUBLIC HEALTH DEPARTMENT[641]

Medical cannabidiol program, amendments to ch 154 IAB 10/25/17 ARC 3420C	Rooms 517 and 518 Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 877-844-7358	December 8, 2017 10 a.m. to 12 noon
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PUBLIC SAFETY DEPARTMENT[661]

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RACING AND GAMING COMMISSION[491]

Confidential records; gambling structures; new hires; minimum payoff on wager; horse racing; gambling games; accounting and cash control, amendments to chs 3, 5, 6, 8, 10 to 12 IAB 11/8/17 ARC 3434C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	November 28, 2017 9 a.m.
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Employer contribution and charges; claims and benefits, 23.69, 23.70, 23.72(1), 24.1, 24.39, 24.40 IAB 10/25/17 ARC 3432C	IWD Board Room 135 1000 E. Grand Ave. Des Moines, Iowa	November 21, 2017 10 a.m.
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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 3439C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These proposed amendments reflect the new accreditation standards in rule 441—24.21(225C) for crisis response services. Iowa Medicaid currently covers crisis response services; however, these amendments will clarify services covered and provide standards for operation for Medicaid crisis response service providers.

These amendments also establish the process by which the Department of Human Services’ Iowa Medicaid Enterprise (IME) will enroll and reimburse qualified subacute mental health facility providers.

Any interested person may make written comments on the proposed amendments on or before November 28, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 441—77.55(249A):

441—77.55(249A) Crisis response services.

77.55(1) Definitions. The terms used in this rule shall have the same meaning as set out in 441—Chapter 24, Division II.

77.55(2) Eligible providers. Agencies which are accredited under the mental health service provider standards established by the mental health and disability services commission, set forth in 441—Chapter 24, Division II, are eligible to participate in the program by providing crisis response services, crisis stabilization community-based services, and crisis stabilization residential services.

77.55(3) Provider standards. All providers of crisis response services, crisis stabilization community-based services, and crisis stabilization residential services shall meet the standards criteria as set forth in 441—Chapter 24, Division II.

ITEM 2. Adopt the following **new** rule 441—77.56(249A):

441—77.56(249A) Subacute mental health services.

77.56(1) Definitions. The terms used in this rule shall have the same meaning as set out in Iowa Code section 135G.1.

77.56(2) Subacute mental health services. Subacute mental health services are intended to be short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

HUMAN SERVICES DEPARTMENT[441](cont'd)

77.56(3) Eligible provider. Subacute mental health care facilities which are licensed by the department of inspections and appeals in accordance with 481—Chapter 71 are eligible to participate in the program by providing subacute mental health services.

77.56(4) Provider standards. All providers of subacute mental health services shall meet the standards criteria as set forth in 481—Chapter 71.

ITEM 3. Adopt the following **new** rule 441—78.60(249A):

441—78.60(249A) Crisis response services. Payment will be made to providers (eligible pursuant to rule 441—77.55(249A)) of crisis response services, crisis stabilization community-based services, and crisis stabilization residential services delivered as set forth in 441—Chapter 24, Division II.

ITEM 4. Adopt the following **new** rule 441—78.61(249A):

441—78.61(249A) Subacute mental health services. Payment will be made to providers (eligible pursuant to rule 441—77.56(249A)) for the provision of subacute mental health care facility services that meet the standards outlined in 481—Chapter 71.

ITEM 5. Adopt the following **new** provider categories in subrule **79.1(2)**:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Crisis response services	Fee schedule	Fee schedule in effect 2/1/18.
Crisis stabilization community-based services	Fee schedule	Fee schedule in effect 2/1/18.
Crisis stabilization residential services	Fee schedule	Fee schedule in effect 2/1/18.
Subacute mental health facility	Fee schedule	Fee schedule in effect 2/1/18.

ITEM 6. Adopt the following **new** subparagraph **79.3(2)“d”(44)**:
(44) Crisis response services, crisis stabilization community-based services and crisis stabilization residential services.

1. Physician orders or court orders.
2. Independent assessment.
3. Individual treatment plan.
4. Service notes or narratives (history and physical, therapy records, discharge summary).
5. Medication administration records (residential services).

ITEM 7. Adopt the following **new** subparagraph **79.3(2)“d”(45)**:
(45) Subacute mental health services.

1. Assessment.
2. Individual stabilization plan.
3. Service notes or narratives (history and physical, therapy records, discharge summary).
4. Medication administration records (residential services).

ARC 3438C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 109, “Child Care Centers,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This proposed amendment revises the definition of “child care” found in rule 441—109.1(237A) to provide allowable exemptions in accordance with 2017 Iowa Acts, House File 534. House File 534 modifies Iowa Code chapter 237A to allow programs serving children who are at least three years of age and eligible for special education under Iowa Code chapter 256B to be exempt from child care facility licensing requirements.

Any interested person may make written comments on the proposed amendment on or before November 28, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 237A.1(3) as amended by 2017 Iowa Acts, House File 534.

The following amendment is proposed.

Amend rule **441—109.1(237A)**, definition of “Child care,” as follows:

“*Child care*” means the care, supervision, or guidance of a child by a person other than the child’s parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child’s home, but does not include care, supervision, or guidance of a child by any of the following:

1. An instructional program for children who are attending prekindergarten as defined by the state board of education under Iowa Code section 256.11 or a higher grade level and are at least four years of age, or at least three years of age and eligible for special education under Iowa Code chapter 256B, and administered by a public or nonpublic school system accredited by the department of education or the state board of regents or a nonpublic school system which is not accredited by the department of education or the state board of regents.

2. to 13. No change.

ARC 3437C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

These proposed amendments provide parameters on weapons being present in a child care setting. Currently, there are no administrative rules regarding weapons in child development homes or licensed child care centers. It is recognized that some people choose to have weapons in their homes and also may utilize permits to carry weapons. As a result, it is important that the Department ensure that children in care are safe from any weapons.

Foster care homes that are licensed through the Department already have rules in place regarding weapons.

“Caring for Our Children: National Health and Safety Performance Standards” indicates that child care centers should have a written policy prohibiting firearms, ammunition, and ammunition supplies.

HUMAN SERVICES DEPARTMENT[441](cont'd)

While taking best practice into consideration for rule amendments, it is also recognized that some people approve of professionals in child care and educators having access to weapons in the event of an emergency. Additionally, many people have strong opinions about individual rights to keep and bear arms. While having weapons in any child care setting is highly discouraged, the Department is proposing allowance of weapons and firearms only under specific conditions to ensure the safety of children in care.

Child care homes should have a written policy that if firearms and other weapons are present, the firearms and weapons should have child protective devices, be unloaded or disarmed, be kept under lock and key, and be inaccessible to children. Additionally, ammunition and ammunition supplies should be placed in locked storage, separate from firearms, and inaccessible to children. Parents/guardians should also be notified that firearms and other weapons are on the premises.

Any interested person may make written comments on the proposed amendments on or before November 28, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 237A.12.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 109.10(17):

109.10(17) Weapons.

a. All weapons and firearms shall be inaccessible to a child of any age.
b. The center shall have a written policy regarding weapons and firearms. The policy shall include the following:

- (1) Weapons and firearms shall be maintained in a locked place, such as a gun case.
- (2) Ammunition shall be maintained in a locked place separate from the firearms.
- (3) Any motor vehicles used to transport children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

c. Parents shall be advised if there are any weapons on the premises of the child care facility.

ITEM 2. Adopt the following **new** paragraph **110.8(1)“t”**:

t. The provider shall have written policies regarding weapons and firearms.

- (1) Weapons and firearms shall be inaccessible to a child of any age.
- (2) Weapons and firearms shall be maintained in a locked place, such as a gun case.
- (3) Ammunition shall be maintained in a locked place separate from the firearms.
- (4) Any motor vehicles used to transport children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

(5) Parents shall be advised if there are any weapons on the premises of the child care facility.

ITEM 3. Adopt the following **new** paragraph **120.8(1)“q”**:

q. The provider shall have written policies regarding weapons and firearms.

- (1) Weapons and firearms shall be inaccessible to a child of any age.
- (2) Weapons and firearms shall be maintained in a locked place, such as a gun case.
- (3) Ammunition shall be maintained in a locked place separate from the firearms.
- (4) Any motor vehicles used to transport children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

(5) Parents shall be advised if there are any weapons on the premises of the child care home.

ARC 3436C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

The Department is required by federal legislation, CFR 45, Part 98, to implement professional development requirements for child care homes that are not registered but have a child care assistance provider agreement. Further, the Department is permitted to make exemptions for relatives that meet the federal definition of “relative.” These proposed amendments provide consistency for requirements for professional development training entities and topics. These proposed amendments also make enhancements to sleep practices to ensure that children who are sleeping in child care facilities are using items designed for sleeping which meet Consumer Product Safety Commission (CPSC) or American Society for Testing and Materials (ASTM) requirements.

Any interested person may make written comments on the proposed amendments on or before November 28, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.12.

The following amendments are proposed.

ITEM 1. Amend subparagraph **109.12(5)“e”(7)** as follows:

(7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required.

ITEM 2. Adopt the following **new** paragraph **109.12(5)“i”**:

i. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

ITEM 3. Rescind subrule 110.8(5) and adopt the following **new** subrule in lieu thereof:

110.8(5) Safe sleep.

a. The provider shall follow safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one. Infant sleep shall conform to the following standards:

- (1) Infants shall always be placed on their backs for sleep.
- (2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission federal standards.
- (3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface.
- (4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.
- (5) No co-sleeping shall be allowed.
- (6) Sleeping infants shall be actively observed by sight and sound.
- (7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. No child shall be allowed to sleep in any item not designed for sleeping including, but not limited to, an infant seat, car seat, swing, or bouncy seat.

c. A crib or criblike furniture which has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and which meets the current standards or recommendations from the Consumer Product Safety Commission or ASTM International for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or criblike furniture shall be provided for the number of children present at any one time. The home shall maintain all cribs or criblike furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

d. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

ITEM 4. Rescind paragraph **110.10(1)“e.”**

ITEM 5. Reletter paragraphs **110.10(1)“f”** and **“g”** as **110.10(1)“e”** and **“f.”**

ITEM 6. Adopt the following new paragraph **110.10(1)“g”**:

g. A provider who has completed training through a child care resource and referral agency or community college within six months prior to initial registration shall be permitted to count the training toward the provider’s total training required during the initial registration.

ITEM 7. Adopt the following new definition of “Relative” in rule **441—120.1(237A)**:

“Relative” means grandparents, great grandparents, aunts, uncles, and siblings living in a separate residence.

ITEM 8. Rescind subrule 120.8(5) and adopt the following new subrule in lieu thereof:

120.8(5) Safe sleep.

a. The provider shall follow safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one. Infant sleep shall conform to the following standards:

- (1) Infants shall always be placed on their backs for sleep.
- (2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission federal standards.
- (3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface.
- (4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.
- (5) No co-sleeping shall be allowed.
- (6) Sleeping infants shall be actively observed by sight and sound.
- (7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required.

b. No child shall be allowed to sleep in any item not designed for sleeping including, but not limited to, an infant seat, car seat, swing, or bouncy seat.

c. A crib or criblike furniture which has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and which meets the current standards or recommendations from the Consumer Product Safety Commission or ASTM International for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or criblike furniture shall be provided for the number of children present at any one time. The home shall maintain all cribs or criblike furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

d. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

ITEM 9. Adopt the following new subrule 120.10(6):

120.10(6) During each two-year provider agreement period, the provider shall receive a minimum of six hours of training. A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

a. Training shall be completed from one or more of the following content areas.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) Planning a safe, healthy learning environment (includes nutrition).
 - (2) Steps to advance children's physical and intellectual development.
 - (3) Positive ways to support children's social and emotional development (includes guidance and discipline).
 - (4) Strategies to establish productive relationships with families (includes communication skills and cross-cultural competence).
 - (5) Strategies to manage an effective program operation (includes business practices).
 - (6) Maintaining a commitment to professionalism.
 - (7) Observing and recording children's behavior.
 - (8) Principles of child growth and development.
- b.* Training identified in subrule 120.10(1) may be counted toward the total six hours of required training only at the initial time in which the training is received.
- c.* A child care home provider operating under this chapter that meets the definition of "relative" as defined in rule 441—120.1(237A) shall be exempt from the training requirements under this subrule.

ITEM 10. Adopt the following **new** subrule 120.10(7):

120.10(7) Approved training.

a. The training must be conducted by a trainer who is employed by or under contract with one of the following entities or who uses curriculum or training materials developed by or obtained with the written permission of one of the following entities:

- (1) An accredited university or college.
 - (2) A community college.
 - (3) Iowa State University Extension.
 - (4) A child care resource and referral agency.
 - (5) An area education agency.
 - (6) The regents' center for early developmental education at the University of Northern Iowa.
 - (7) A hospital (for health and safety, first-aid, and CPR training).
 - (8) The American Red Cross, American Heart Association, National Safety Council, American Safety and Health Institute or MEDIC First Aid (for first-aid and CPR training).
 - (9) An Iowa professional association, including the Iowa Association for the Education of Young Children (Iowa AEYC), the Iowa Family Child Care Association (IFCCA), the Iowa After School Alliance, and the Iowa Head Start Association.
 - (10) A national professional association, including the National Association for the Education of Young Children (NAEYC), the National Child Care Association (NCCA), the National Association for Family Child Care (NAFCC), the National After School Association, and the American Academy of Pediatrics.
 - (11) The Child and Adult Care Food Program (CACFP) and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).
 - (12) The Iowa department of public health, department of education, or department of human services.
 - (13) Head Start agencies or the Head Start technical assistance system.
 - (14) Organizations that are certified by the International Association for Continuing Education and Training (IACET).
- b.* Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph 120.10(7) "a" or an entity approved under paragraph 120.10(7) "h."
- c.* Approved training shall be made available to Iowa child care providers through the child care provider training registry.
- d.* Training received in a group setting may include distance learning opportunities, such as training conducted over the Iowa communications network, online courses, or Web conferencing (webinars) if:
- (1) The training meets the requirements in subrule 120.10(8);

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and

(3) The training organization meets the requirements listed in this subrule or is approved by the department.

e. The department will not approve more than eight hours of training delivered in a single day.

f. The department may randomly monitor any state-approved training for quality control purposes.

g. Training conducted with the provider either during the hours of operation of the facility, provider lunch hours, or while children are resting must not diminish the required ratio coverage. The provider shall not be actively engaged in care and supervision and simultaneously participate in training.

h. A training organization not approved by the department may submit a request for review to the department on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

ITEM 11. Adopt the following **new** subrule 120.10(8):

120.10(8) Elements of training. Training provided to Iowa child care providers shall offer:

a. Instruction that is consistent with:

(1) Iowa child care regulatory standards;

(2) The Iowa early learning standards; and

(3) The philosophy of developmentally appropriate practice as defined by the National Association for the Education of Young Children, the Program for Infant/Toddler Care, and the National Health and Safety Performance Standards.

b. Content equal to at least one contact hour of training.

c. An opportunity for teacher-student interaction and timely feedback, including questions and answers and with evaluation of learning.

d. For each participant, a certificate of training that includes:

(1) The name of the participant.

(2) The title of the training.

(3) The dates of training.

(4) The content area addressed.

(5) The name of the training organization.

(6) The name of the instructor.

(7) The number of contact hours.

ARC 3435C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Physical and Occupational Therapy hereby gives Notice of Intended Action to amend Chapter 201, “Practice of Physical Therapists and Physical Therapist Assistants,” and Chapter 208, “Practice of Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code.

The proposed amendments add requirements for telehealth.

Any interested person may make written comments on the proposed amendments no later than November 28, 2017, addressed to Judy Manning, Professional Licensure Division,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail judith.manning@idph.iowa.gov.

A public hearing will be held on November 28, 2017, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

These amendments are intended to implement Iowa Code chapters 147, 148A, and 272C.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 645—201.3(147):

645—201.3(147) Telehealth visits. A licensee may provide physical therapy services to a patient utilizing a telehealth visit if the physical therapy services are provided in accordance with all requirements of this chapter.

201.3(1) “Telehealth visit” means the provision of physical therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the physical therapy session.

201.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a physical therapy session or to communicate with a patient between physical therapy sessions.

201.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person physical therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular physical therapy services cannot be met using technology.

201.3(4) Any physical therapist or physical therapist assistant who provides a physical therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

201.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the physical therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide physical therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

201.3(6) A licensee shall only provide physical therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

201.3(7) A licensee shall identify in the clinical record when physical therapy services are provided utilizing a telehealth visit.

ITEM 2. Adopt the following **new** rule 645—208.3(147):

645—208.3(147) Telehealth visits. A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

208.3(1) “Telehealth visit” means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

208.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

208.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

208.3(4) Any occupational therapist or occupational therapist assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

208.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide occupational therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

208.3(6) A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

208.3(7) A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

ARC 3433C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 154C.4, the Board of Social Work hereby gives Notice of Intended Action to amend Chapter 280, “Licensure of Social Workers,” Chapter 281, “Continuing Education for Social Workers,” Chapter 282, “Practice of Social Workers,” and Chapter 283, “Discipline for Social Workers,” Iowa Administrative Code.

Item 1 removes the definition of “private practice” as that term is not used in Chapter 280. Item 2 updates information on how to apply for a license. Item 3 updates contact information for agencies that provide equivalency evaluations of educational credentials. Item 4 reorganizes the supervision requirements. As part of the reorganization, the requirement for face-to-face meetings before starting supervision via electronic means was reduced from two meetings to one meeting. Item 5 rescinds paragraph 280.9(2)“f,” which requires licensees to reactivate an inactive license before they can apply for a higher level license, and Item 6 reletters paragraph 280.9(2)“g” as “f.” Items 7 and 8 remove outdated language. Item 9 replaces a reference to a specific diagnosis manual that is outdated with a reference to the current edition. Item 10 allows supervisors of social work practicum students to receive continuing education credit. Item 11 updates language on informed consent. Item 12 adds new language requiring that policies be adopted regarding electronic communication. Item 13 clarifies that the Board considers an emotional or employment relationship with a client to be a dual relationship. Item 14 adds new language requiring social workers to take reasonable steps to identify a client and assess the client’s suitability when social work services are being provided via electronic means. Item 15 reorganizes existing language regarding grounds for discipline.

Any interested person may make written comments on the proposed amendments no later than November 28, 2017, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail tony.alden@idph.iowa.gov.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on November 28, 2017, from 8:30 to 9 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

After analysis and review of this rule making, no adverse impact on jobs exists.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

These amendments are intended to implement Iowa Code section 154C.4.

The following amendments are proposed.

ITEM 1. Rescind the definition of “Private practice” in rule **645—280.1(154C)**.

ITEM 2. Amend subrule 280.3(1) as follows:

280.3(1) The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board’s Web site (~~<http://www.idph.state.ia.us/licensure>~~) (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibpllicense.iowa.gov. All paper applications shall be sent to Board of Social Work, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 3. Amend paragraph **280.5(4)“a”** as follows:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, ~~4725~~ 1701 Duke Street, Suite 500 200, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site <http://www.cswe.org>. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

ITEM 4. Rescind rule 645—280.6(154C) and adopt the following **new** rule in lieu thereof:

645—280.6(154C) Period of supervised professional practice for LISW. To qualify for licensure at the independent level, an LMSW shall complete a period of supervised professional practice in accordance with the requirements of this rule.

280.6(1) Minimum requirements. The period of supervised professional practice shall:

- a. Not begin prior to licensure at the master’s level.
- b. Have a duration of at least two calendar years.
- c. Consist of a minimum of 4,000 hours of social work practice at the master’s level.
- d. Include at least 110 hours of direct supervision equitably distributed throughout the period and in compliance with the requirements of subrule 280.6(3).
- e. Be done pursuant to one or more written supervision plans that comply with the requirements of subrule 280.6(7).

280.6(2) Content of supervised professional practice. The supervisor shall ensure that the period of supervised professional practice includes the following:

- a. Psychosocial assessments, including evaluation of symptoms and behaviors and the effects of the environment on behavior;
- b. Diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association;
- c. Treatment, including the establishment of treatment goals, psychosocial therapy, and differential treatment planning;
- d. Practice management skills;
- e. Skills required for continued competence;
- f. Training on ethical standards and legal and regulatory requirements; and
- g. Development of professional identity.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

280.6(3) Direct supervision. The required 110 hours of direct supervision may be obtained through individual meetings between the supervisor and supervisee or through group supervision meetings consisting of the supervisor and more than one supervisee.

a. The first supervision meeting must occur in person. After the first supervision meeting, the remaining supervision may occur through in-person meetings or through electronic meetings using an interactive real-time system that provides for visual and audio interaction between the supervisor and supervisee.

b. A maximum of 60 hours of direct supervision may be obtained through group supervision meetings. A maximum of six supervisees may participate in any group supervision meeting.

280.6(4) Supervisor eligibility requirements.

a. To be eligible to serve as a supervisor for the period of supervised professional practice, a social worker shall:

(1) Hold an active license to practice social work at the independent level in Iowa. If the supervised professional practice occurs in another state, a social worker licensed in that state may serve as a supervisor if the social worker is licensed at a level equivalent to the independent level. A social worker licensed in another state may provide direct supervision hours if the social worker is licensed at a level equivalent to the independent level.

(2) Have at least three years of social work practice at the independent level, which must include a minimum of 4,000 hours of practice.

(3) Complete a six-hour continuing education course pertaining to social work practice supervision or one master's level course in supervision.

b. Any request for a supervisor who does not meet these requirements must be submitted to the board for approval before supervision begins. The board will only approve an otherwise ineligible supervisor if the supervisee demonstrates that eligible supervisors are unavailable or unwilling to provide supervision. Any practice or supervision hours obtained under an ineligible supervisor prior to board approval cannot be counted toward completion of the period of supervised professional practice.

280.6(5) Supervisor responsibilities. A supervisor shall provide adequate supervision to all supervisees. Failure to provide adequate supervision may be grounds for disciplinary action. A supervisor shall be responsible for:

- a.* Timely submission of the supervision plan;
- b.* Providing supervision in accordance with this rule;
- c.* Directing the supervisee to obtain written releases of information from patients when legally required for purposes of providing supervision;
- d.* Providing periodic evaluations and feedback regarding the supervisee's performance to the supervisee;
- e.* Answering questions and assisting supervisees as new or difficult issues arise;
- f.* Ensuring the supervisee's caseload is manageable;
- g.* Reporting to the board any violations of board rules by supervisees; and
- h.* Completing a supervision report.

280.6(6) Supervisee responsibilities. A supervisee shall comply with all statutes and rules governing the practice of social work. A supervisee shall be responsible for:

- a.* Timely submission of the supervision plan;
- b.* Obtaining supervision in accordance with this rule;
- c.* Obtaining written releases of information from patients when legally required for purposes of receiving supervision;
- d.* Asking the supervisor to provide periodic evaluations and feedback regarding the supervisee's performance;
- e.* Asking questions of the supervisor when assistance is needed or when new or difficult issues arise;
- f.* Reporting any issues related to caseload, including volume and difficulty, to the supervisor;
- g.* Reporting to the board any violations of board rules by the supervisor; and

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

h. Maintaining a copy of every supervision plan and supervision report until such time as the supervisee is issued a license to practice social work at the independent level.

280.6(7) *Supervision plan.* A current written supervision plan must be maintained throughout the period of supervised professional practice. Each supervisor who provides practice supervision or direct supervision hours shall be named on a supervision plan.

a. A written supervision plan must be established and submitted to the board before the period of supervised professional practice begins. The board will perform an initial review of each supervision plan and notify the supervisee of approval or denial of the plan within 45 days of receipt. A supervisee may begin supervised professional practice after submission of the supervision plan but cannot count any practice or supervision hours obtained pursuant to a supervision plan that is ultimately denied by the board.

b. If a supervisee is changing supervisors or adding an additional supervisor, a revised supervision plan shall be submitted to the board for approval at the time of the change or addition. A supervisee may continue supervised professional practice after submission of a revised supervision plan but cannot count any practice or supervision hours obtained pursuant to a revised supervision plan that is ultimately denied by the board.

c. The board maintains a supervision plan form that may be utilized to write the supervision plan. A supervision plan shall include:

- (1) The name, license number, date of licensure, address, telephone number, and e-mail address of the supervisor;
- (2) The name, license number, address, telephone number, and e-mail address of the supervisee;
- (3) The name of the agency, institution, or organization providing the period of supervised professional practice;
- (4) The start date and estimated date of completion of the period of supervised professional practice;
- (5) The goals and objectives for the period of supervised professional practice;
- (6) The nature, duration, and frequency of direct supervision, including the number of hours of direct supervision per week, the schedule for in-person and electronic supervision meetings, and the use of group supervision; and
- (7) The signatures of the supervisor and supervisee, and the dates of the signatures.

280.6(8) *Completion of supervised professional practice.*

a. At the conclusion of the period of supervised professional practice, the supervisee shall have any and all supervisors complete a supervision report on the form provided by the board. Each supervision report must be signed and dated by the supervisor and supervisee.

b. The board will review each supervision report for approval of the hours pertaining to the particular report. The board may deny any practice or supervision hours that were not obtained in compliance with this rule. The board may deny any practice or supervision hours if the supervisor indicates that the supervisee did not adhere to the ethical standards and legal and regulatory requirements governing the practice of social work or if the supervisor does not recommend the supervisee for licensure at the independent level.

ITEM 5. Rescind paragraph **280.9(2)“f.”**

ITEM 6. Reletter paragraph **280.9(2)“g”** as **280.9(2)“f.”**

ITEM 7. Amend subrule 281.2(1) as follows:

281.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. (~~To implement this rule change, the continuing education period for the December 31, 2000, renewal will run from July 1, 1998, to December 31, 2000.~~) Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 27 hours of continuing education approved by the board.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 8. Rescind subrule **281.2(8)**.

ITEM 9. Amend subparagraph **281.3(1)“f”(2)** as follows:

(2) Assessment and treatment.

1. No change.

2. Utilization of the ~~DSM-IV-TR~~ current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association;

3. to 6. No change.

ITEM 10. Adopt the following **new** paragraph **281.3(2)“k”**:

k. Supervision of a social work practicum student(s) from an accredited social work education program. A licensee may receive one credit for every 100 hours supervised, not to exceed six hours of continuing education credit per biennium.

ITEM 11. Amend paragraphs **282.2(1)“a”** and **“b”** as follows:

a. A licensee shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A licensee shall use clear and understandable language to inform clients ~~of the proposed~~ about the nature of available services, purpose of the services, risks related to the services, limits to services because of the requirements of a third-party payer, relevant costs, reasonable alternatives, a client's right to refuse or withdraw consent, and the time frame covered by the consent potential benefits and risks, limits and risks of confidentiality, alternative ways of receiving assistance, applicable fees, and involvement of and sharing information with third parties.

b. ~~If a client is not literate or has difficulty understanding the primary language used in the practice setting~~ has difficulty communicating, a licensee shall attempt to ensure the client's comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible. A licensee shall provide information in a manner that is understandable and culturally appropriate for the client. Clients shall be given sufficient opportunity to ask questions and receive answers about social work services, including electronic delivery of services, if appropriate.

ITEM 12. Adopt the following **new** paragraph **282.2(1)“g”**:

g. A licensee shall develop policies regarding the sharing, retention, and storage of digital and other electronic communications and records and shall inform clients of applicable policies.

ITEM 13. Amend paragraph **282.2(8)“a,”** introductory paragraph, as follows:

a. “Dual relationship” means that a licensee develops or assumes a secondary role with a client, including but not limited to a social relationship, an emotional relationship, an employment relationship, or a business association. For purposes of these rules, “dual relationship” does not include a sexual relationship. Standards governing sexual relationships are found in subrule 282.2(9).

ITEM 14. Adopt the following **new** subrule 282.2(19):

282.2(19) *Electronic social work services.* A licensee shall:

a. Assess the client's suitability and capacity for online and remote services at the point of the client's first contact and use professional judgment to determine whether an initial in-person, videoconference, or telephone consultation is warranted before undertaking electronic social work services.

b. Take reasonable steps to verify the client's identity, ability to consent to services, and location. When verification of a client's identity is not feasible, social workers shall inform the client of the limitations of services that can be provided.

c. Continually assess a client's suitability for electronic social work services during the course of the professional relationship.

ITEM 15. Amend rule 645—283.2(272C) as follows:

645—283.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—283.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

283.2(1) to 283.2(28) No change.

283.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.
b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. ~~283.2(30)~~ Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. ~~283.2(31)~~ Being adjudged mentally incompetent by a court of competent jurisdiction.

~~283.2(30)~~ **283.2(32)** Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

~~283.2(31)~~ **283.2(33)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

ARC 3434C**RACING AND GAMING COMMISSION[491]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 3, “Fair Information Practices,” Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 6, “Occupational and Vendor Licensing,” Chapter 8, “Wagering, Simulcasting and Advance Deposit Wagering,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 adds records that are to be considered confidential and makes a corrective change in subparagraph 3.13(2)“f”(3).

Item 2 clarifies that advanced deposit wagering licensees need to follow the same rule as other licensees.

Item 3 clarifies that all remodeling associated with the licensed facility needs to be submitted for approval.

Item 4 adds a provision for exceptions to be approved.

Item 5 clarifies that a list of the person(s) hired should be filed before the person(s) begins working.

Item 6 lowers minimum payoff for win, place and show wagers.

Item 7 removes allowance for coupled entries.

Item 8 clarifies requirements for jockey clothing.

Item 9 clarifies disqualifications.

Item 10 changes the amount of time allowed to declare overweight limit for jockeys.

Item 11 removes allowance for coupling.

Item 12 clarifies that a riding suspension relates to a careless riding infraction and that each trial race ridden by a jockey is counted as one race for the purpose of applying suspension days.

RACING AND GAMING COMMISSION[491](cont'd)

Item 13 allows a trainer to enter a horse to race without papers on file if certain other conditions are met.

Item 14 removes allowance for coupled entries.

Item 15 clarifies eligibility for in-foal fillies.

Item 16 clarifies that prescriptions for race horses shall only be written and dispensed by licensed veterinarians.

Item 17 specifies labeling requirements for prescription medications.

Item 18 clarifies that prescription medications must be prescribed in compliance with certain requirements.

Items 19 and 20 declare that practicing veterinarians shall not have contact with an entered horse to race within 24 hours of the race except in the case of emergency.

Item 21 specifies which software must be tested and secured for table games.

Item 22 imposes a minimum payout in instances where an operator sets an aggregate payback limit.

Item 23 allows for the game Big Six.

Item 24 removes the requirement for each facility to provide certain names with regard to alarm system access.

Any person may make written suggestions or comments on the proposed amendments on or before November 28, 2017. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309; or irgc@iowa.gov. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

A public hearing will be held on November 28, 2017, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F as amended by 2017 Iowa Acts, House File 462.

The following amendments are proposed.

ITEM 1. Amend subrule 3.13(2) as follows:

3.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to e. No change.

f. Those portions of commission staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by commission staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) and (2) No change.

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

g. and h. No change.

i. Information gathered during an investigation during pendency of the investigation or information requested for inspection by the commission or a representative of the commission. (Iowa Code sections 99D.7(8) ~~and~~ 99D.19(3), 99F.4(6) and 99F.12(4))

j. Personnel files and employee records. Information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

k. Security plans, surveillance system plans and records, and network audits, internal controls, and compliance records of the licensees that are made available to the commission that would enable law violators to avoid detection and give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2, 17A.3, ~~and~~ 22.7(18), 99D.19(3) and 99F.12(4)-)

RACING AND GAMING COMMISSION[491](cont'd)

l. Promotional play receipts records and marketing expenses. (Iowa Code sections 99D.19(3) and 99F.12(4))

m. Patron and customer records. (Iowa Code sections 99D.19(3) and 99F.12(4))

n. Supplemental schedules to the certified audit that are obtained by the commission in connection with the annual audit under Iowa Code sections 99D.20 and 99F.13. (Iowa Code sections 99D.19(3) and 99F.12(4))

ITEM 2. Amend paragraph **5.4(12)“a,”** introductory paragraph, as follows:

a. The holder of a license to operate gambling games and the holder of a license to accept simulcast wagering shall adopt and implement policies and procedures designed to:

ITEM 3. Amend subrule 5.4(15) as follows:

5.4(15) Remodeling. For any ~~change to be made~~ construction to the facility itself directly associated with racing or gaming or change in the structure of the boat itself, the licensee must first submit plans to and receive the approval of the administrator.

ITEM 4. Amend subrule 5.5(11) as follows:

5.5(11) Designated wagering area. The designated wagering area is a rectangular area within a minimum of five feet from the front and from either side of a stationary wagering window or self-service wagering device, not otherwise obstructed by a wall or other barrier. The facility shall either section off or clearly delineate the floor of the area and post a sign near the area, which is visible to patrons approaching the area, denotes the wagering area and specifies that the wagering area is not accessible to persons under the age of 21. The designation applies only when the wagering window or device is open to transact wagering. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. Exceptions to this rule must be approved in writing by the commission.

ITEM 5. Amend subrule 6.9(2) as follows:

6.9(2) When a facility hires a person who is already in possession of a current occupational license, a list of the person(s) hired must be filed weekly with the local commission office before the person(s) begins working. The list should contain the license number, name, social security number, and birth date of each person hired.

ITEM 6. Amend subrule 8.2(20) as follows:

8.2(20) Minimum wager and payoff. The minimum wager to be accepted by any licensed facility for win, place and show wagering shall be \$2. The minimum payoff on a \$2 wager shall be ~~\$2.20~~ \$2.10. For all other wagers, the minimum wager to be accepted by any licensed facility shall be \$1. The minimum payoff for a \$1 wager shall be ~~\$1.10~~ \$1.05. Any deviation from these minimums must be approved by the administrator. In cases where a minus pool occurs, the facility is responsible for the payment of the minimum payoff and no breakage shall be incurred from that pari-mutuel pool.

ITEM 7. Amend subparagraph **10.4(4)“d”(3)** as follows:

(3) Fouls.

1. No change.

~~2.—Coupled entry. When a horse is disqualified under 10.4(4)“d”(3)“1” and that horse was a part of a coupled entry and, in the opinion of the stewards, the act which led to the disqualification served to unduly benefit the other part of the coupled entry, the stewards may disqualify the other part of the entry.~~

~~3. 2.~~ Jockey guilty of foul. The stewards may discipline any jockey whose horse has been disqualified as a result of a foul committed during the running of a race.

ITEM 8. Amend subparagraph **10.5(2)“j”(1)** as follows:

(1) Clothing and appearance. A jockey shall wear the racing colors furnished by the owner or facility with the of the horse the jockey is to ride, plus solid white riding pants, top boots, and a number on the right shoulder on the saddlecloth corresponding to the mount’s number given as shown on the saddlecloth and in the racing daily program. A jockey shall maintain a neat and clean appearance while engaged in duties on facility premises and shall wear a clean jockey costume, cap, helmet (approved by

RACING AND GAMING COMMISSION[491](cont'd)

~~commission), a jacket of silk or waterproof fabric, breeches, and top boots. The Jockeys' Guild logo, the Permanently Disabled Jockeys Fund logo, or the jockey's name may be displayed on the solid white pants. The size of the display of the jockey's name on the solid white pants is limited to a maximum of 32 square inches on each thigh of the pants on the outer sides between the hip and the knee, and 10 square inches on the rear at the base of the spine. A jockey shall not wear advertising or promotional material of any kind on clothing during a race, unless the following criteria are met:~~

~~1. A maximum of 32 square inches on each thigh of the pants on the outer side between the hip and knee and 10 square inches on the rear of the pant at the waistline at the base of the spine.~~

~~2. A maximum of 24 square inches on boots and leggings on the outside of each nearest the top of the boot.~~

~~3. A maximum of 6 square inches on the front center of the neck area (on a turtleneck or other undergarment).~~

~~4. Such advertising or promotional material does not compete with, conflict with, or infringe upon any current sponsorship agreement to the racing association race or race meet.~~

~~5. The stewards, at their discretion, may disallow any advertising that is not in compliance with this rule, any other rules of racing, or any advertising the stewards deem to be inappropriate, indecent, in poor taste, or controversial.~~

ITEM 9. Amend subparagraph **10.5(2)“m”(2)** as follows:

(2) The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding. When a horse causes interference under this rule, every horse in the same race entered by the same owner or trainer who benefited from the interference may be disqualified at the discretion of the stewards.

ITEM 10. Amend paragraph **10.5(2)“r,”** introductory paragraph, as follows:

r. Overweight limited. No jockey may weigh more than two pounds or, in the case of inclement weather, four pounds over the weight the horse is assigned to carry unless with consent of the owner or trainer and unless the jockey has declared the amount of overweight to the clerk of scales at least 45 60 minutes before the scheduled post time of the first race. However, a horse shall not carry more than seven pounds overweight, except in inclement weather when nine pounds shall be allowed. The overweight shall be publicly announced and posted in a conspicuous place both prior to the first race of the day and before the running of the race.

ITEM 11. Amend subparagraph **10.5(2)“r”(4)** as follows:

(4) Underweight. When any horse places first, second, or third in a race, ~~or is coupled in any form of multiple exotic wagering,~~ and thereafter the horse's jockey is weighed in short by more than two pounds of the weight of which the jockey was weighed out, the mount may be disqualified and all purse moneys forfeited.

ITEM 12. Amend subparagraph **10.5(2)“v”(4)** as follows:

(4) Riding suspensions of ten days or less and participating in designated races. The stewards appointed for a race meeting shall immediately, prior to the commencement of that meeting, designate the stakes, futurities, futurity trials, or other races in which a jockey will be permitted to compete, notwithstanding the fact that such jockey is ~~technically~~ under suspension for ten days or less for a careless riding infraction at the time the designated race is to be run.

1. to 3. No change.

4. A day in which a jockey participated in one designated race while on suspension shall count as a suspension day. If a jockey rides in more than one designated race on a race card while on suspension, the day shall not count as a suspension day. ~~Designated trials~~ Each designated trial race for a stake shall be considered one race.

ITEM 13. Amend subparagraph **10.6(1)“b”(2)** as follows:

(2) The horse's breed registration certificate is not on file with the racing secretary, or horse identifier, ~~except in the case of a quarter horse~~ where the racing secretary has submitted the certificate to the breed registry for correction or transfer of ownership. The stewards may, in their discretion,

RACING AND GAMING COMMISSION[491](cont'd)

waive the requirement in nonclaiming races provided the registration certificate is in the possession of another board of stewards, a copy of the registration certificate is on file with the racing secretary; and the horse is otherwise properly identified. For claiming races, if the claimed horse has been approved by the stewards to run without the registration certificate on file in the racing office, then the registration certificate must be provided to the racing office within seven business days for transfer to the new owner before claiming funds will be approved for transfer by the stewards.

ITEM 14. Amend subrule 10.6(11) as follows:

10.6(11) Racing numbers.

a. No change.

b. ~~*Coupled entries.* In the case of a coupled or other entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall be entered as 1 and 1-A.~~

e. b. *Field horses.* In a combined field of horses, each horse in the field shall carry a separate number.

ITEM 15. Adopt the following **new** paragraph **10.6(18)“I”**:

l. *Eligibility of in-foal filly or mare.* An in-foal filly or mare shall be eligible to be entered into a claiming race only if the following conditions are fulfilled:

(1) Full disclosure of such fact is on file with the racing secretary and such information is posted in the secretary's office;

(2) The stallion service certificate has been deposited with the racing secretary's office before the horse runs;

(3) All payments due for the service in question and for any live progeny resulting from that service are paid in full;

(4) The release of the stallion service certificate to the successful claimant at the time of claim is guaranteed; and

(5) The cutoff for racing is 150 days of gestation.

ITEM 16. Amend subparagraph **10.7(1)“d”(2)**, introductory paragraph, as follows:

(2) No person except a veterinarian shall have in the person's possession any prescription drug. Prescriptions shall be written or dispensed or both only by duly licensed veterinarians in the context of a valid veterinarian-client-patient relationship and based upon a specific medical diagnosis. However, a person may possess a noninjectable prescription drug for animal use if:

ITEM 17. Amend subparagraph **10.7(1)“d”(4)** as follows:

(4) No veterinarian or any other person shall dispense, sell, or furnish any feed supplement, tonic, veterinary preparation, medication, or any other substance that can be administered or applied to a horse by any route, to any person within the premises of the facility unless ~~there is a label specifying the name of the substance dispensed, the name of the dispensing person, the name of the horse or horses for which the substance is dispensed, the purpose for which said substance is dispensed, the dispensing veterinarian's recommendations for withdrawal before racing (if applicable), and the name of the person to whom dispensed,~~ it is labeled in conformance with this rule or is otherwise labeled as required by law. A substance does not comply with this rule if the label is missing, illegible, tampered with, or altered.

1. Labels for all substances must include the name of the substance dispensed; the name of the dispensing person; the name of the horse or horses for which the substance is dispensed; the purpose for which the substance is dispensed; the dispensing veterinarian's recommendations for withdrawal before racing, if applicable; and the name of the person to whom dispensed.

2. Labels for medications or other prescribed substances must include all items from subparagraph 10.7(1)“d”(1) and, in addition, the date the prescription was filled; the name of the trainer or owner of the horse for whom the product was dispensed; dose; dosage; route of administration; duration of treatment of the prescribed product; and expiration date.

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 18. Adopt the following **new** subparagraph **10.7(1)“d”(7)**:

(7) Any drug or medication for horses which is used or kept on facility premises and which requires a prescription must be prescribed in compliance with applicable state law and regulations by a veterinarian who is duly licensed by the commission, the Iowa veterinary board, or the state in which the horse was located at the time of the examination, diagnosis and prescription.

ITEM 19. Rescind paragraph **10.7(4)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Practicing veterinarians shall not have contact with an entered horse within 24 hours before the scheduled post time of the race in which the horse is scheduled to compete unless approved by the state veterinarian except in the case of emergency. In case of an emergency, the state veterinarian must be notified prior to entering the stall. A documented attempt to contact the state veterinarian prior to entering the stall shall comply with the notification requirements pursuant to this rule. Any unauthorized contact may result in the horse's being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the stewards.

ITEM 20. Rescind paragraph **10.7(4)“h.”**

ITEM 21. Rescind subrule 11.7(1) and adopt the following **new** subrule in lieu thereof:

11.7(1) Devices that determine or affect the outcome of wagers or are used in the collection of wagers on table games are subject to the requirements of rule 491—11.4(99F) and subrule 11.5(3). Removable storage media shall be sealed with tamper-evident tape by a commission representative prior to its implementation.

ITEM 22. Rescind subrule 11.7(2) and adopt the following **new** subrule in lieu thereof:

11.7(2) Wagers.

a. All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout.

b. Information pertaining to the minimum and maximum allowed at the table shall be posted on the game.

c. A facility may impose an aggregate payout limit on a per-wager basis. The aggregate may only affect the highest award per wager and shall not be less than 85 percent of the maximum available payout. Maximum available payout shall be calculated using the maximum wager as posted on the game multiplied by the payout of the highest award offered at the game. Additional restrictions may be imposed on aggregate payout limits, as determined by the administrator. Aggregate payout limits shall be posted on the game.

d. Any other fee collected to participate in a table game shall be subject to the wagering tax pursuant to Iowa Code section 99F.11.

ITEM 23. Adopt the following **new** subrule 11.7(6):

11.7(6) Big six.

a. Wagers must be made before the spin of the wheel.

b. Each player shall be responsible for the correct positioning of the player's wager on the layout regardless of whether that player is assisted by the dealer.

c. The wheel may be spun in either direction, but must complete at least three revolutions to be considered a valid spin.

d. Each wager shall be settled strictly in accordance with its position on the layout when the wheel stops with the winning indicator in a compartment of the wheel. In accordance with subrule 11.4(3), the rules shall include procedures addressing wheel stops that land between two compartments of the wheel. These procedures shall be posted at the game.

ITEM 24. Amend subrule 12.4(3) as follows:

12.4(3) Each facility shall place on file with the commission the names of all persons authorized to enter the cashier's cage, and persons who possess the combination or keys to the locks securing the entrance to the cage, ~~and persons who possess the ability to operate alarm systems.~~

ARC 3441C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 108, the Department of Human Services hereby amends Chapter 52, “Payment,” and Chapter 54, “Facility Participation,” Iowa Administrative Code.

These amendments remove the requirement for an annual cost report for privately operated residential care facilities (RCFs) and change the cost reimbursement methodology to be based on the maximum per diem rate pursuant to subrule 52.1(3).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3259C** on August 16, 2017. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 11, 2017.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective October 11, 2017. These amendments confer a benefit on the public. All privately operated residential care facilities will be reimbursed at the maximum amount allowable.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 108.

These amendments became effective October 11, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 52.1(3) as follows:

52.1(3) Residential care. ~~Payment to~~ For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of \$30.11. The department shall establish a cost-related per diem rate for each licensed residential care facility choosing this the cost-related reimbursement method of payment according to rule 441—54.3(249). For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of \$30.11, but reimbursement for recipients in non-privately operated residential care facilities will continue to be based on the flat per diem rate of \$17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of \$30.11.

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. to g. No change.

ITEM 2. Amend rule 441—54.3(249), introductory paragraph, as follows:

441—54.3(249) Financial and statistical report Payment for residential care facilities. Payments for privately operated residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3). All Non-privately operated facilities wishing to participate in the program shall submit a Financial and Statistical Report, Form 470-0030, to the department. The reports shall be based on the following rules.

[Filed Emergency After Notice 10/11/17, effective 10/11/17]

[Published 11/8/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3440C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby amends Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The purpose of the rule making is to formalize permitting process improvements identified during "LEAN" events that included the Department of Natural Resources (Department), the Office of Lean Enterprise in the Department of Management, and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. LEAN is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 18, 2017, as **ARC 2895C**, and a public hearing was held on February 20, 2017, in Windsor Heights, Iowa. The Department received no comments at the public hearing. The Department received one written comment prior to the February 20, 2017, deadline for public comments.

In response to the public comment received, the Commission approved publication of an Amended Notice of Intended Action to accept additional comments and to hold another public hearing. The Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2017, as **ARC 3251C**, and a second public hearing was held on September 5, 2017, in Windsor Heights, Iowa. The Department received no comments at the second public hearing and received no additional written comments prior to the September 5, 2017, deadline for public comments.

In response to the public comment, the Commission revised Item 1 and Item 2 from the amendments published under Notice of Intended Action. The changes from the Notice are explained below. The Commission did not make any other changes from the amendments published under Notice of Intended Action. The Department's public participation responsiveness summary is available from the Department upon request.

Item 1 amends the requirements for submitting construction permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. Item 1 also reduces the regulatory burden for construction permit applicants for projects that will not emit greenhouse gases (GHG) by eliminating the requirement to submit the current three-page GHG form. Applicants will instead be able to indicate in the project description that the application includes no GHG emissions.

In response to public comment, the Commission has revised Item 1 from what was proposed in the Notice of Intended Action. The U.S. Environmental Protection Agency (EPA) submitted a comment stating that the portion of the amendment allowing submittal of a construction permit application by e-mail would not be approved into Iowa's State Implementation Plan (SIP). The EPA stated that it would not approve this rule change into the SIP because Iowa has not submitted the electronic submittal method as part of a formal application for compliance with the federal Cross-Media Electronic Reporting Rule (CROMERR).

Subsequently, the Department submitted a formal request to the EPA for an Applicability Determination on whether the e-mail submittal method, if submitted as part of a formal CROMERR application, would be CROMERR-compliant. The EPA responded to the Department in a letter dated May 25, 2017, indicating that such an application submittal method would not be considered CROMERR-compliant. As a result of the EPA's comment and subsequent determination, and with no comments to the contrary, the Commission is not including the provisions for e-mail application submittal in the adopted amendments.

Item 2 amends the requirements for submitting Title V permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. The Commission has also revised the requirements so that only one copy of the Title V permit application (rather than two) needs to be submitted to the Department.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

In response to the same public comment as noted for Item 1, the Commission has revised Item 2 from what was proposed in the Notice of Intended Action. As a result of the EPA's comment and subsequent determination described above, and with no comments to the contrary, the Commission is not including the provisions for e-mail application submittal in the adopted amendments.

Jobs Impact Statement

After analysis and review, the Commission has determined that the amendments will have a positive fiscal impact for the regulated community, which may also result in a positive jobs impact. For instance, facilities that had previously chosen to submit hard-copy applications by certified mail are likely to realize cost savings by using another, less expensive submittal method. A cost and time savings will also occur with submitting only one copy of the Title V permit application to the Department. Further, the requirement to submit GHG forms is eliminated in many instances. These savings could be put back into the company which could positively impact jobs. A copy of the jobs impact statement is available upon request.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 22.1(3) as follows:

22.1(3) Construction permits. The owner or operator of a new or modified stationary source shall apply for a construction permit. One copy of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. An owner or operator applying for a permit as required pursuant to rule 567—31.3(455B) (nonattainment new source review) or 567—33.3(455B) (prevention of significant deterioration (PSD)) shall present or mail to the department one hard copy of a construction permit application to the address specified above and, upon request from the department, shall also submit one electronic copy and one additional hard copy of the application. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. The owner or operator of any new or modified industrial anaerobic lagoon shall apply for a construction permit as specified in this subrule and as provided in 567—Chapter 22. The owner or operator of a new or modified anaerobic lagoon for an animal feeding operation shall apply for a construction permit as provided in 567—Chapter 65.

a. No change.

b. *Construction permit applications.* Each application for a construction permit shall be submitted to the department on the permit application forms available on the department's Web site. Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while the employee is doing work for that corporation. The application for a permit to construct shall include the following information:

(1) to (8) No change.

(9) A signed statement that ensures the applicant's legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project; ~~and~~

(10) Application fee.

1. The owner or operator shall submit a fee as required in 567—Chapter 30 to obtain a permit under subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33;

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

2. For application submittals from a minor source as defined in 567—Chapter 30, the department shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the department; and

(11) Quantity of greenhouse gas emissions for all applications for projects that will or do have greenhouse gas emissions. For all applications for projects that will not or do not have greenhouse gas emissions, the applicant shall indicate in the application that no greenhouse gases will be emitted, and the applicant will not be required to file an inventory of greenhouse gases with that application, unless requested by the department.

c. No change.

ITEM 2. Amend subrule 22.105(1) as follows:

22.105(1) Duty to apply. For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (~~two copies~~ one copy); and U.S. EPA Region VII, 11201 Renner Boulevard, Lenexa, Kansas 66219 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

a. and b. No change.

[Filed 10/17/17, effective 12/13/17]

[Published 11/8/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3442C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 152, "Foster Care Contracting," Chapter 156, "Payments for Foster Care," and Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

These amendments align program and payment changes under the competitive child welfare services procurement for supervised apartment living (SAL) based on Request for Proposal ACFS 18-016, Child Welfare Crisis Intervention, Stabilization, and Reunification (CISR) Services, Supervised Apartment Living (SAL), with new contracts anticipated to begin October 1, 2017. Alignment will address payment, service determinations, and eligibility.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3260C** on August 16, 2017. The Department received no comments from the public during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 11, 2017.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

These amendments will become effective January 1, 2018.

The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend rule ~~441—152.1(234)~~, definition of “Unit of service,” as follows:

“Unit of service” means one day for group care and child welfare emergency services shelter, ~~and one hour or any portion thereof for supervised apartment living as set forth in 441—paragraph 202.9(4)“b.”~~

ITEM 2. Amend rule 441—156.12(234) as follows:

441—156.12(234) Supervised apartment living.

156.12(1) *Maintenance Child monthly stipend.* ~~Effective July 1, 2013, when a child at least aged 16½ but under the age of 20 is~~ For each eligible child living in a supervised apartment living situation, the monthly ~~maintenance stipend~~ payment for the child shall be \$787.50. This payment may be paid to the child or another payee, other than a department employee, for the child’s living expenses.

156.12(2) *Service.* When services for a youth in supervised apartment living are purchased, the service components and ~~number of hours purchased~~ any special provisions shall be specified by the service worker in the youth’s case permanency plan.

This rule is intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

ITEM 3. Amend subrule 202.9(2) as follows:

202.9(2) *Eligibility.* To be eligible for supervised apartment living placement, a child shall meet all of the following conditions:

a. No change.

b. The child must be at least 17 years old, ~~for~~ and it has been determined by the department or juvenile court services referral worker that the child has lived successfully in a SAL cluster setting until the child is able to live in a more independent placement in a scattered-site setting.

c. If the child is under the age of 18, the child must:

(1) Satisfactorily attend school, in accordance with the school’s attendance policies, with the objective of obtaining a high school diploma; or

(2) Satisfactorily attend an instructional program, pursuant to the program’s policies, necessary to obtain a general high school equivalency diploma (GED); or

(3) Attend school to obtain postsecondary education or training on a full-time basis (based upon the institution’s definition of full-time) or attend on a part-time basis and be either working or participating in a work training program leading to employment; or

(4) Work at least an average of 80 hours per month if not enrolled in school; or

(5) Participate in a work training program leading to employment if not enrolled in school.

d. If the child is aged 18 or older, the child must:

(1) Meet the definition of “child” in Iowa Code section 234.1; and

(2) Have been in foster care immediately before reaching the age of 18 and have continued in foster care since reaching the age of 18. The service area manager or designee may waive the requirement for continuous placement for a child who leaves foster care at age 18 and voluntarily returns before the child’s twentieth birthday in order to complete high school or obtain a GED high school equivalency diploma, consistent with Iowa Code sections 234.35(1)“f” and 234.35(3)“c”; and

(3) Attend school on a full-time basis leading to a high school diploma or attend an instructional program leading to a GED high school equivalency diploma.

e. to j. No change.

ITEM 4. Amend subparagraph **202.9(3)“a”(4)** as follows:

(4) A budget, developed with the child, based upon the child’s monthly ~~maintenance stipend~~ payment, any start-up allowance, any earned or unearned incomes and financially related assistance (e.g., food assistance). Staff will work with the child to ensure payment of bills and receipt of necessary items as outlined in the budget.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Amend subrule 202.9(4) as follows:

202.9(4) Method of service provision. Supervised apartment living services may be provided directly by the department or purchased from an agency that has a contract with the department to provide supervised apartment living foster care services. If services are purchased:

a. Department staff shall be responsible to determine the specific service components ~~and the specific number of service units to be provided for required services and any special provisions of this care.~~ The department case permanency plan shall specify the goals and objectives (action steps) of the services that are being purchased. If services are purchased, the worker shall complete Form 470-5081, Placement Agreement and Service Authorization for Supervised Apartment Living (SAL), to place the child with the contractor, to authorize the SAL service, and to ~~authorize service codes (scattered-site or cluster setting; individual services or services provided with a group of children in supervised apartment living placement) and the specific number of units to be provided and billable~~ identify any special provisions for the case.

b. ~~Service billings for services~~ Supervised apartment living billings shall be based on one hour (one unit equals one hour of service), or any portion thereof (with monthly cumulative units rounded up or down to the nearest whole unit), of: follow the terms of the contract with the department.

(1) ~~Direct face-to-face contact between the service provider and the child.~~

(2) ~~Activities undertaken to assist the child in developing the needed structure and supports to live in the supervised apartment living setting.~~

(3) ~~Activities undertaken to assist the child in locating and using other needed services, supports, and community resources and to consult and collaborate on service directions on behalf of the child with schools, employers, landlords, volunteers, extended family members, peer support groups, training resources, or other community resources.~~

e. ~~Service billings for group services shall be based on one hour (one unit equals one hour of service), or any portion thereof (with monthly cumulative units rounded up or down to the nearest whole unit), for each child in the group.~~

d. ~~Expenses of transporting the child, service management activities, and other administrative functions shall be allowable indirect costs subject to the restrictions set forth in 441—subrule 152.2(6) and are not billable units of service.~~

e. ~~Contractors providing a cluster setting shall be paid \$551.25 per month per child in the setting for agency staffing costs, in addition to billable units of services provided to the child, but are eligible for this payment only when two or more children are in the setting. For a child who enters a cluster setting during the month, the prorated amount per day is \$18.12. If a child exits the setting on or before the last day of the month, the \$551.25 shall be prorated up to the date before the date of exit.~~

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ARC 3443C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 481A.38, 481A.39, 481A.67, 481A.76, 483A.6A, and 483A.39, the Natural Resource Commission (Commission) hereby amends Chapter 44, “Special Events and Fireworks Displays,” and Chapter 81, “Fishing Regulations,” Iowa Administrative Code.

These amendments increase paddlefish angler opportunities and establish better conservation-minded practices during catfish and bass fishing tournaments. Specifically, the amendments make the following changes to Chapter 81: add 39 days to the Missouri and Big Sioux Rivers paddlefish fishing season; allow the purchase of up to two Missouri and Big Sioux Rivers paddlefish fishing licenses instead of

NATURAL RESOURCE COMMISSION[571](cont'd)

only one; authorize the snagging of the fish species listed in subrule 81.2(11) in areas previously limited to snagging of only paddlefish with a valid paddlefish fishing license and unfilled tag; and permit the culling of catfish at Department of Natural Resources (DNR)-permitted catch and release, boat-based catfish fishing tournaments. The amendments to Chapter 44 establish a daily catch limit of five catfish per tournament boat team at DNR-permitted catch and release, boat-based catfish fishing tournaments and a five-fish daily possession limit with no length limit for DNR-permitted catch and release bass fishing tournaments.

Almost 75 percent of the available Missouri and Big Sioux Rivers paddlefish fishing licenses (743 out of 1,000) were purchased in 2015's inaugural paddlefish season. In 2016, however, only 406 licenses were purchased. In an effort to increase interest, the Commission has made the following changes: firstly, 39 days are being added to the paddlefish season in the Missouri and Big Sioux Rivers by opening the season earlier (on February 4 instead of March 1) and pushing the closing date later (from April 15 to April 30).

Secondly, the amendments authorize anglers to purchase more than one Missouri and Big Sioux Rivers paddlefish license (the current rule limits an angler to only one). The Commission has created two separate buying windows (December 15 to December 31 and January 1 to January 7) so that all interested anglers may have an opportunity to buy one paddlefish license before others buy their second. This is necessary because there are only 950 resident and 50 nonresident paddlefish licenses available and they are issued on a first-come, first-served basis. (Note: The 1,000 license quota was based on the number of paddlefish that could be harvested without causing a population decline. Increasing the season's length will not cause the harvest to exceed the established quota.)

Thirdly, the Commission is authorizing snagging of the fish species listed in subrule 81.2(11) with a valid paddlefish license and unfulfilled tag in areas previously limited to just paddlefish snagging. Snagging is the practice of jerking any type of hook or lure, whether baited or not, through the water with the intention of foul hooking fish ("[a] fish is foul hooked when caught by a hook in an area other than in the fish's mouth" pursuant to subrule 81.2(11)). Snagging is a valid method of take for paddlefish, so it is a logical extension to include these other species under the license. Once an angler has caught and tagged a paddlefish, however, no further snagging is permissible.

The amendments also authorize the culling of catfish at catch and release, boat-based catfish fishing tournaments. Culling—that is, to sort, cull, high-grade, or replace a fish already in one's possession for another fish deemed superior—is currently not permitted for catfish fishing tournaments. Thus, anglers are keeping catfish in holding devices (either live tanks, stringers, or baskets) up to the legal daily catch limit (8 in lakes, 15 in streams) while participating in these tournaments, but this practice poses a genuine threat to fish health. When so many catfish are temporarily held in these devices, they are ultimately more susceptible to mortality after release due to the physical stress from crowding and oxygen depletion. Therefore, allowing anglers to cull during these tournaments is better for fish health and will prevent overcrowding of fish in holding devices.

Additionally, the Commission is amending Chapter 44, "Special Events and Fireworks Displays," at the request of tournament organizers, by lowering the daily catch limit for catch and release boat-based, catfish fishing tournaments. Lower daily catch limits, in combination with the ability to cull, will address the detrimental overcrowding issue. Tournament organizers have been self-imposing restrictive daily catch limits ranging between three and six fish to sustain fish health. The parties were able to come to a consensus on a new daily catch limit of five per boat regardless of the number of tournament participants on the vessel.

Finally, the amendments provide new required permit conditions for catch and release bass fishing tournaments, including requirements related to fish health and possession and length limits. These permit requirements implement 2017 Iowa Acts, Senate File 257, signed by Governor Branstad on April 12, 2017. Tournament participants will now be allowed to possess five black bass of any species (i.e., Largemouth, Smallmouth, or Spotted) and to possess bass of any length. Currently, the daily bag limit is three bass of any one species, with a cumulative, mixed species bag limit of five, and various length limits apply depending on the water body. The existing possession and length limits remain in effect for all anglers not participating in a DNR-permitted catch and release bass fishing tournament.

NATURAL RESOURCE COMMISSION[571](cont'd)

To facilitate the above amendments to the fishing tournament rules, new definitions of “catfish fishing tournament” and “bass fishing tournament” have been adopted and the definition of “fishing tournament” has been amended.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2017, as **ARC 3279C**. A public hearing was held on September 19, 2017, in Des Moines, Iowa. No comments were received from the public during the comment period. These amendments are identical to those published under Notice, except for the addition of the phrase “the participants are” in subrule 81.2(13) for clarity.

After analysis and review of this rule making, the Commission anticipates a neutral-to-positive impact on private sector jobs from the amendments. All amendments have the support of recreational anglers and catfish and bass tournament organizers, none of whom receive income directly from their involvement or efforts. That said, the amendments are intended to increase recreational angling opportunity, which could translate to a slight increase in revenue for local tackle shops, convenience stores, and outdoor recreational gear stores. A copy of the complete Jobs Impact Statement is available upon request.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, 481A.76, and 483A.6A, and 2017 Iowa Acts, Senate File 257.

These amendments shall become effective on December 13, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of “Bass fishing tournament” and “Catfish fishing tournament” in rule **571—44.2(321G,321I,461A,462A,481A)**:

“*Bass fishing tournament*” means an event with the purpose of fishing for black bass as defined in 2017 Iowa Acts, Senate File 257. For purposes of this chapter, “bass fishing tournament” is included in the definition of “special event” unless otherwise specified.

“*Catfish fishing tournament*” means an event with the purpose of fishing for catfish from boats that meets the definition of “fishing tournament.” For purposes of this chapter, “catfish fishing tournament” is included in the definition of “special event” unless otherwise specified.

ITEM 2. Amend rule **571—44.2(321G,321I,461A,462A,481A)**, definition of “Fishing tournament,” as follows:

“*Fishing tournament*” means any organized fishing event, except for department-sponsored fishing events held for educational purposes, involving any of the following: (1) six or more boats or 12 or more participants, except for waters of the Mississippi River, where the number of boats shall be 20 or more and the number of participants shall be 40 or more; (2) an entry fee is charged; ~~and~~ or (3) prizes or other inducements are awarded. For purposes of this chapter, “fishing tournament” is included in the definition of “special event” unless otherwise specified.

ITEM 3. Adopt the following **new** subrule 44.4(3):

44.4(3) *Catfish fishing tournaments*. The daily catch limit for a catch and release catfish fishing tournament permitted under this chapter is five catfish per boat regardless of the number of tournament participants on the boat.

ITEM 4. Adopt the following **new** subrule 44.4(4):

44.4(4) *Bass fishing tournaments*. In addition to permit conditions deemed necessary under the introductory paragraph of rule 571—44.4(321G,321I,461A,462A,481A) or under subrule 44.4(2), the permit conditions for bass fishing tournaments shall:

- a. State the minimum requirements for weigh-in, handling, and release of live bass by tournament participants.
- b. Allow for the measurement of bass to length and release from a vessel.
- c. Allow for the possession of up to five bass for weigh-in during the tournament.
- d. Allow for the possession of bass of any length, so long as the bass are kept alive and are released after weigh-in.
- e. Require the cleaning of vessels, before and after the tournament, in compliance with department guidelines to prevent the transportation of aquatic invasive species.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 5. Amend paragraph **81.2(4)“b”** as follows:

b. Snagging for paddlefish on the Missouri and Big Sioux Rivers is limited to Iowa waters only, beginning in the Big Sioux River below the Interstate 29 bridge to the Big Sioux River’s confluence with the Missouri River and in the Missouri River, including all backwaters and sloughs and any tributary of the Missouri River at its confluence and extending below its Interstate 29 bridge, beginning at the Big Sioux River confluence and extending to the Hamburg Landing boat ramp.

(1) There shall be an open season from ~~March 1~~ February 4 through April ~~15~~ 30.

(2) and (3) No change.

(4) The paddlefish fishing license quota is 950 for resident anglers and 50 for nonresident anglers. ~~No one shall apply for more than one license per year.~~ Licenses shall be issued on a first-come, first-served basis. ~~The purchase period to obtain a~~ A person may purchase one paddlefish fishing license ~~shall be~~ from December 15 through ~~January 31~~ December 31 and either a first or second license between January 1 and January 7. No duplicate license or transportation tag shall be issued after the start of the season.

(5) Each angler ~~who fishes~~ fishes fishing for paddlefish and any species listed in subrule 81.2(11) on the Missouri and Big Sioux Rivers shall have a valid paddlefish fishing license and unused tag. ~~Anglers possessing a paddlefish fishing license and unused tag shall snag fish for the purpose of catching paddlefish only.~~ All snagged fish except for a species listed in subrule 81.2(11) or a legal paddlefish taken into possession shall immediately be released alive.

(6) to (8) No change.

ITEM 6. Amend subparagraph **81.2(11)“a”(8)** as follows:

(8) Missouri River, any Missouri River tributary beginning at its confluence and extending below its Interstate 29 bridge and the Big Sioux River from the Interstate 29 bridge to the confluence with the Missouri River, with the exception of snagging paddlefish ~~and only paddlefish~~ or any of the species listed in subrule 81.2(11) during the paddlefish open season.

ITEM 7. Amend subrule 81.2(13) as follows:

81.2(13) Culling. It is prohibited to sort, cull, high-grade, or replace any fish already in possession. Participants in permitted black bass fishing tournaments are exempted, as are participants in catch and release catfish fishing tournaments if the participants are fishing from a boat with a functioning aerated or water-circulated live well. Any fish taken into possession by holding in a live well, on a stringer or in other fish-holding devices is part of the daily bag limit. Once the daily bag limit of a particular species is reached, fishing for that species is permitted as long as all fish of that species caught are immediately released.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3444C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Barbering hereby amends Chapter 22, “Sanitation,” Iowa Administrative Code.

These amendments reduce regulation and update the current standards of infection control. A Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3021C** on April 12, 2017. At the time the proposed amendments were presented to the Administrative Rules Review Committee, there were inquiries about the use of disinfectants and the requirements of a dispensary.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Barbicide is a brand-name disinfectant that satisfies the definition of “disinfectant.” The amended rules give discretion to the practitioner whether to keep jars of disinfectant at each work station or centrally located.

The definition of “dispensary” is based on the requirement that any storage or mixing not take place at the same location where the services are being provided and is not to be construed as a separate room.

These amendments are identical to those published under Notice of Intended Action.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions of 645—Chapter 18.

These amendments were adopted by the Board on October 9, 2017.

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

These amendments are intended to implement Iowa Code chapters 147 and 158.

These amendments will become effective on December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend **645—Chapter 22**, title, as follows:

SANITATION INFECTION CONTROL FOR BARBERSHOPS AND BARBER SCHOOLS

ITEM 2. Amend rule 645—22.1(158) as follows:

645—22.1(158) Definitions.

“Cleaning” refers to removing visible debris and disposable parts, washing the surface or item with water and soap or detergent, rinsing the surface or item thoroughly and drying the surface or item. Cleaning must occur before disinfection can begin.

“Disinfectant” means an—agent an EPA-registered bactericidal, virucidal, fungicidal, pseudomonocidal chemical solution, spray or wipe that is effective against HIV-1 and human hepatitis B virus and is intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on inanimate nonporous items and surfaces.

“Disinfection” means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

“Dispensary” means a separate physical location or area in a barbershop or school to be used for the storing and dispensing of supplies and cleaning and disinfecting of all implements. The dispensary is where products, chemicals and disinfectants are prepared, measured, mixed, portioned, and disposed of.

“FDA” means the federal Food and Drug Administration.

“Germicide” means an agent that destroys germs.

“Nonporous” means that a material has no pores and does not allow liquid or air to be absorbed or pass through. Common nonporous materials include glass, metal and plastic products.

“Porous” means that a material has minute spaces or holes that allow liquid or air to be absorbed or pass through. Common porous materials include pumice stone, wood, paper and cardboard products.

~~“Sanitization” means the procedure that reduces the level of microbial contamination so that the item or surface is considered safe.~~

“Sterilization” means the procedure that kills all microorganisms, including their spores.

“Universal precautions” means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

“Wash hands” means the process of thoroughly washing hands and the exposed portions of the arms up to the elbow with soap or detergent and water and drying with a single-use towel or air dryer. Bar soap shall not be considered to be a sanitizing agent.

ITEM 3. Rescind rule 645—22.2(158) and adopt the following new rule in lieu thereof:

645—22.2(158) Infection control rules and inspection report. Upon request, the licensee shall make Chapter 22, Infection Control for Barbershops and Barber Schools, and the most recent inspection report available to the board, agents of the board, all persons employed or studying in a barbershop or school, and the general public.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 4. Rescind rule 645—22.3(147) and adopt the following new rule in lieu thereof:

645—22.3(147) Display requirements for barbershops.

22.3(1) Every barbershop shall have a sign visible outside the entrance designating the place of business.

22.3(2) The most current barbershop license renewal card shall be posted in the barbershop front entrance area at eye level, so that it is visible, to provide the public a full, unobstructed view of the license. Photocopies and electronic copies are not acceptable.

22.3(3) The most current license renewal card for each licensee working in the barbershop shall be posted in the barbershop front entrance area at eye level, so that it is visible, to provide the public a full, unobstructed view of the license. Photocopies and electronic copies are not acceptable.

22.3(4) If the licensee works in more than one barbershop, the current renewal card shall be posted in the primary place of practice, and the licensee shall have the current wallet card in the licensee's possession.

22.3(5) Each licensee shall have a valid U.S. government-issued photo ID to provide to an agent of the board upon request as proof of identity.

ITEM 5. Amend rule 645—22.5(158) as follows:

645—22.5(158) Building standards. Barbershops and schools shall provide:

1. A separate area to be used as a reception area;
2. A supply of hot and cold running water and toilet facilities;
3. A supply of safe drinking water;
4. Hand washing facilities;
5. Adequate lighting;
6. A floor surface in the service area that is nonabsorbent and easily cleanable;
7. A minimum of one washbasin or lavatory for every two barber chairs in use. The washbasins or lavatories shall be readily accessible to the operator of each barber chair; ~~and~~
8. Work surfaces that are easily cleaned;
9. A dispensary; and
10. A complete first-aid kit in a readily accessible location on the premises. At a minimum, the first-aid kit must include adhesive dressing, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

ITEM 6. Rescind rule 645—22.10(158) and adopt the following new rule in lieu thereof:

645—22.10(158) Universal protocols. All licensees and students shall practice universal precautions consistently by observing the following.

22.10(1) Students and licensees shall thoroughly wash hands after smoking, eating, or using the restroom and before providing services to each client. Hand sanitizers or gloves are not an acceptable substitute for handwashing.

22.10(2) Every barbershop shall have a biohazard sharps container for disposing of used needles, razor blades and other sharp instruments. These containers shall be located as close to the use area as is practical. These containers shall not be filled above the designated "fill line" and shall be disposed of in accordance with guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

22.10(3) Licensees and students shall wear disposable gloves or may refuse to provide the service when encountering clients with open sores. Gloves shall only be used on a single client and shall be disposed of after the client's service. Anytime gloves are used during a service, licensees and students shall wash hands both before gloves are worn and after they are removed.

22.10(4) A licensee or student shall refrain from all direct client care and from handling client-care equipment if the licensee or student has open sores that cannot be effectively covered.

22.10(5) Instruments and implements shall be disinfected pursuant to rule 645—22.12(158).

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22.10(6) Instruments and supplies that have been used on a client or soiled in any manner shall be placed in the proper receptacles clearly labeled “used.” All used items shall be kept separate from items that are disinfected and ready for use.

22.10(7) Disinfectant solution shall be stored in the dispensary.

ITEM 7. Amend rule 645—22.11(158) as follows:

645—22.11(158) Minimum equipment and supplies. Barbershops and barber schools shall provide:

1. At least one covered waste receptacle for the disposal of all waste, including hair;
2. Receptacles to hold all soiled towels and capes;
3. Clean, closed cabinets or drawers to hold all clean towels;
4. Disinfectant solution kept in the ~~storage area and at each workstation~~ dispensary, and at each workstation at the discretion of the individual licensee or barbershop owner; and
5. A mechanical paper container and clean shaving paper or clean towel for each barber chair headrest.

ITEM 8. Rescind rule 645—22.12(158) and adopt the following new rule in lieu thereof:

645—22.12(158) Disinfection and sterilizing instruments and equipment. All nonporous tools and implements must be either disinfected or sterilized according to the requirements of this rule before use upon a client in schools and barbershops.

22.12(1) Disinfection.

a. Nonporous tools and implements.

(1) Immersion method. After each use, all immersible nonporous tools and implements shall be disinfected by cleaning the tools and implements followed by complete immersion in a disinfectant. Disinfectant solutions shall be mixed according to manufacturer label instructions. The manufacturer’s listed contact time for effectively eliminating all pathogens listed shall be adhered to at all times.

(2) Nonimmersion method. After each use, any nonporous item that cannot be immersed in a disinfectant shall be cleaned with soap or detergent and water to remove all organic material and then sprayed or wiped with disinfectant. Minimum disinfectant contact time as listed on the manufacturer’s label shall be followed. Nonimmersible tools and implements include, but are not limited to, scissors, trimmers, clippers, handles of hair dryers and curling/flat irons.

b. Disinfected implements shall be stored in a disinfected, dry, covered container and shall be isolated from contaminants. The container shall be disinfected at least once each week and whenever the disinfectant solutions are visibly dirty.

c. Disinfectant solutions shall be changed as instructed on the solution’s manufacturer label or whenever the disinfectant solutions are visibly dirty.

22.12(2) Sterilization. UV light boxes are prohibited and are not an acceptable method of sterilization.

a. Tools and implements may be sterilized by one of the following methods:

(1) Steam sterilizer, registered and listed with the FDA and used according to the manufacturer’s instructions. If steam sterilization, moist heat, is utilized, heat exposure shall be at a minimum of 121°C/250°F for at least 30 minutes;

(2) Dry heat sterilizer, registered and listed with the FDA and used according to the manufacturer’s instructions. If dry heat sterilization is utilized, heat exposure shall be at a minimum of 171°C/340°F for at least 60 minutes;

(3) Autoclave sterilization equipment, calibrated to ensure that it reaches the temperature required by the manufacturer’s instructions. If autoclave sterilization equipment is utilized, spore testing by a contracted independent laboratory shall be performed at least every 30 days. If a positive spore test is received, the autoclave may not be used until a negative spore test is received. The barbershop must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of all maintenance performed on the device. Maintenance shall be performed according to the manufacturer’s

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instructions. The barbershop must have available for inspection the autoclave maintenance log for the most recent 12 months; or

(4) Chemical sterilization with a hospital grade liquid which, if used, shall be used according to the directions on the label. When chemical sterilization is used, items shall be fully submerged for at least 10 minutes.

b. Sterilization equipment shall be maintained in working order. The equipment shall be checked at least monthly and calibrated to ensure that it reaches the temperature required by the manufacturer's instructions.

ITEM 9. Rescind and reserve rule **645—22.13(158)**.

ITEM 10. Amend rule 645—22.14(158) as follows:

645—22.14(158) Instruments Porous instruments and supplies that cannot be disinfected. ~~All Porous instruments and supplies that come into direct contact with a client and cannot be disinfected; for example, are single-use items and shall be disposed of in a closed waste receptacle immediately after use. These instruments and supplies include, but are not limited to, cotton pads, sponges, emery boards, and neck strips, shall be disposed of in a closed waste receptacle immediately after use.~~

ITEM 11. Amend rule 645—22.15(158) as follows:

645—22.15(158) Semisolids, dusters, and styptics.

22.15(1) Creams and other semisolid substances used for clients must be kept in closed, labeled containers. All creams and other semisolid substances shall be removed from containers with a clean, ~~sanitized~~ and disinfected applicator. Applicators made of a washable, nonabsorbent material shall be ~~sanitized~~ cleaned and disinfected before being used on a client and shall only be dipped into the container one time before being used ~~cleaned and disinfected~~ again. Applicators made of wood shall be discarded after a single dip, which would be one use.

22.15(2) The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use. Any material used to stop the flow of blood shall be used in liquid or powder form.

22.15(3) Nail buffers are for individual use and may not be used for more than one client. Presence of these articles in the workplace shall be prima facie evidence of use.

22.15(4) All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

22.15(5) Neck dusters, brushes, and common shaving mugs and soap shall not be used in any barbershop or barber school.

ITEM 12. Rescind rule 645—22.16(158) and adopt the following **new** rule in lieu thereof:

645—22.16(158) Blood exposure procedures.

22.16(1) If a student or licensee injures oneself, the following steps shall be taken before the student or licensee returns to service:

a. Stop service.

b. Clean the injured area by washing the area with soap and water. Use antiseptic or ointment as appropriate.

c. In the case of mucous membrane exposure, wash or rinse the affected area with plenty of water.

d. Cover the injury with the appropriate dressing.

e. Clean the client and station as necessary. First, remove all visible debris and then clean the client with an antiseptic that is appropriate for the skin and clean the station with disinfectant.

f. Bag any blood-soiled porous articles and dispose of articles in the trash.

g. Wash and disinfect all nonporous items.

h. Wash hands before returning to service.

22.16(2) If a client injury occurs, the following steps shall be taken:

a. Stop service.

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- b. Glove hands of students or licensees.
- c. Clean injured area and use antiseptic or ointment as appropriate.
- d. Cover the injury with the appropriate dressing to prevent further blood exposure.
- e. Clean station by removing all visible debris and using disinfectant that is appropriate for the soiled surface.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

ITEM 13. Amend rule 645—22.19(158) as follows:

645—22.19(158) Proper laundering and storage. All cloth towels and similar items shall be laundered in a washing machine with laundry detergent used according to manufacturer's directions. All linens shall be dried until hot to the touch. No moisture shall be left in laundered items. A clean, closed cabinet storage area shall be provided for clean towels and linen, and a covered hamper or receptacle must marked "used" shall be provided for all soiled towels, robes and linens.

[Filed 10/12/17, effective 12/13/17]

[Published 11/8/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3445C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Physical and Occupational Therapy hereby amends Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," and Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

These amendments update the Board's Web site address, add the Web site address to apply online, revise the requirements for an incomplete application, revise the requirements for foreign-trained applicants, change one of the requirements for endorsement applicants, remove the requirement for a notarized copy of a diploma for occupational therapy licensure, and remove the option to practice as an occupational therapy applicant prior to licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 2, 2017, as **ARC 3221C**. A public hearing was held on August 22, 2017, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No public comments were received on the proposed amendments. These amendments are identical to those published under Notice.

These amendments were adopted by the Iowa Board of Physical and Occupational Therapy on October 9, 2017.

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

These amendments are intended to implement Iowa Code chapters 147, 148A, 148B, and 272C.

These amendments will become effective on December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 200.2(1) as follows:

200.2(1) The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board's Web site (~~<http://www.idph.state.ia.us/licensure>~~) (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All paper applications shall be sent to the Board of Physical

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and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 2. Rescind subrule 200.2(8) and adopt the following **new** subrule in lieu thereof:

200.2(8) Submitting complete application materials. An application for a physical therapist or physical therapist assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

ITEM 3. Rescind subparagraphs **200.5(1)“a”(1)** and **(2)**.

ITEM 4. Amend paragraph **200.5(2)“a”** as follows:

a. 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; Web site 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. ~~A credentialing agency should use the version for the CWT that coincides with the professional educational criteria that were in effect on the date the applicant graduated from the applicant’s respective physical therapy education program. This same process should be used for first-time licensees and for those seeking licensure through endorsement.~~ 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.

ITEM 5. Amend paragraph **200.7(2)“d”** as follows:

d. Have successfully passed the examination within a period of ~~one year~~ two years from the date of examination to the time application is completed for licensure.

ITEM 6. Amend rule 645—206.2(147) as follows:

645—206.2(147) Requirements for licensure. The following criteria shall apply to licensure:

206.2(1) The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board’s Web site (~~<http://www.idph.state.ia.us/licensure>~~) (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the application online at ibplicense.iowa.gov. All ~~paper~~ applications shall be sent to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

206.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

206.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

206.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board have been received by the board.

~~**206.2(5)** The applicant shall provide a notarized copy of the certificate or diploma indicating the degree awarded to the applicant, if the degree is not indicated on the official transcript.~~

~~**206.2(6)**~~ **206.2(5)** The licensure examination score shall be sent directly from the examination service to the board to confirm a passing score on the examination.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~206.2(7)~~ **206.2(6)** Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

206.2(7) Submitting complete application materials. An application for an occupational therapist or occupational therapy assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

~~206.2(8)~~ Incomplete applications that have been on file in the board office for more than two years shall be:

- ~~a.~~ Considered invalid and shall be destroyed; or
- ~~b.~~ Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

ITEM 7. Rescind and reserve rule ~~645—206.4(147)~~.

ITEM 8. Amend rule 645—206.5(147) as follows:

645—206.5(147) Practice of occupational therapy limited permit holders and endorsement applicants prior to licensure.

206.5(1) Occupational therapist limited permit holders and endorsement applicants working prior to licensure may:

- a. and b. No change.

206.5(2) Occupational therapy assistants; and limited permit holders and endorsement applicants working prior to licensure shall:

- a. and b. No change.

ITEM 9. Amend rule 645—206.9(147) as follows:

645—206.9(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction 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, another state, territory, province or foreign country who:

1. to 6. No change.
7. Shows evidence of one of the following:
 - Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
 - The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
 - Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
 - Successfully passing the examination within a period of ~~one year~~ two years from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

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ARC 3446C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," and Chapter 10, "Thoroughbred and Quarter Horse Racing," Iowa Administrative Code.

The amendment in Item 1 to subrule 5.4(12), which relates to problem gambling policies and procedures, specifically, voluntary exclusion, implements legislation passed in 2017 to amend Iowa Code sections 99D.7(23) and 99F.4(22).

The amendment in Item 2 to paragraph 10.7(1)"k," which relates to racehorse medication requirements, implements legislation passed in 2017 to amend Iowa Code section 99D.25A.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3255C** on August 16, 2017. A public hearing was held on September 5, 2017. No one attended the hearing, and no comments were received. These amendments are identical to those published under Notice.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F and 2017 Iowa Acts, Senate File 442 and House File 568.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 5.4(12) as follows:

5.4(12) Problem gambling.

a. The holder of a license to operate gambling games shall adopt and implement policies and procedures designed to:

- (1) Identify problem gamblers; and
- (2) Allow persons to be voluntarily excluded for five years or life from all facilities. Each facility will disseminate information regarding the exclusion to all other facilities.

b. The policies and procedures shall be developed in cooperation with the gambling treatment program and shall include without limitation the following:

- (1) Training of key employees to identify and report suspected problem gamblers;
- (2) Procedures for recording and tracking identified problem gamblers;
- (3) Policies designed to prevent serving alcohol to intoxicated casino patrons;
- (4) Steps for removing problem gamblers from the casino; and
- (5) Procedures for preventing reentry of problem gamblers.

c. A licensee shall include information on the availability of the gambling treatment program in a substantial number of its advertisements and printed materials.

ITEM 2. Amend paragraph **10.7(1)"k"** as follows:

k. Non-steroidal anti-inflammatory drugs (NSAIDs).

(1) The use of one of three approved NSAIDs shall be permitted under the following conditions:
1. The level does not exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

- Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 2 micrograms per milliliter;
- Flunixin – 20 nanograms per milliliter;
- Ketoprofen – 2 nanograms per milliliter.

2. The NSAIDs listed in numbered paragraph "1" or any other NSAIDs are prohibited from being administered within the 24 hours before post time for the race in which the horse is entered.

3. The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below ~~1 microgram~~ 0.3 micrograms per milliliter, flunixin in a concentration below 3 nanograms per milliliter, or ketoprofen in a concentration below 1 nanogram

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per milliliter of serum or plasma, or the presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(2) Any horse to which an NSAID has been administered shall be subject to having a blood sample(s), urine sample(s) or both taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) or the presence of other drugs which may be present in the blood or urine sample(s).

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ARC 3447C

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3 and 2017 Iowa Acts, House File 516, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Chapter 22, "Voting Systems," Chapter 26, "Counting Votes," and Chapter 28, "Voter Registration File (I-Voters) Management," Iowa Administrative Code.

These amendments are necessary because the General Assembly has enacted 2017 Iowa Acts, House File 516. The Secretary of State has determined that as a result of this newly enacted law, the following amendments are necessary to keep the administrative rules in compliance with the Iowa Code. House File 516 makes significant changes to elections in the state of Iowa, creating the need to update Chapters 21, 22, 26, and 28, which are chapters that contain elections rules in the Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3282C** on August 30, 2017. The Secretary received written comments from a jointly issued letter signed by several organizations. A public hearing was held on October 16, 2017, at which comments were also received. While many of the comments related to the enactment of 2017 Iowa Acts, House File 516, one of the written comments prompted a change to the amendments proposed in Item 2 of the Notice of Intended Action.

As a result of the feedback from the public, the Secretary decided to exclude a portion of the proposed language in paragraph 21.3(6)"a" in Item 2. Subrule 21.3(6) in Item 2 concerns factors that a poll worker may use in determining whether the would-be voter matches the voter identification that is presented. There were concerns that the proposed language in paragraph 21.3(6)"a" risked impugning voters with disabilities. Therefore, the proposed language in paragraph 21.3(6)"a" was not adopted, and the paragraph has been revised to read as follows:

"a. Changes to the voter's physical appearance or signature,"

Questions and comments were also submitted after the public hearing. Based on those comments, the Secretary agrees that the same goals can be reached with simpler language. To achieve further clarification, the proposed amendment to paragraph 21.4(1)"c" in Item 3 has been revised to replace the word "and" with the word "through." The paragraph now reads as follows:

"c. Present proof of residence and identity as required by subrules 21.3(1) through 21.3(4)."

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

These amendments are intended to implement 2017 Iowa Acts, House File 516.

These amendments will become effective December 31, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 21.2(2) as follows:

21.2(2) Original absentee ballot applications. The original absentee ballot application submitted electronically shall also be mailed or delivered to the commissioner. If mailed, the envelope bearing the original absentee ballot application shall be postmarked not later than the ~~Friday before the election~~

SECRETARY OF STATE[721](cont'd)

voter registration deadline provided in Iowa Code section 48A.9 for the election for which the ballot is requested. This subrule shall not apply to documents submitted electronically by UOCAVA voters pursuant to rule 721—21.320(53).

a. The voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the original absentee ballot application which was filed electronically is not received by the time the polls close on election day.

b. The voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the postmark or Intelligent Mail barcode (IMb) on the envelope containing the original absentee ballot application is either illegible or later than the ~~Friday before the election~~ voter registration deadline provided in Iowa Code section 48A.9 for the election for which the ballot is requested.

ITEM 2. Amend rule 721—21.3(49,48A) as follows:

721—21.3(49,48A) Voter identification documents.

21.3(1) *Identification documents for persons other than election day registrants.*

a. Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the identification documents listed in Iowa Code section 48A.8 and 2017 Iowa Acts, House File 516, section 27, from any person who is asked or required to present identification pursuant to Iowa Code section 49.77.

b. Current and valid identification. "Current and valid" or "identification," for persons other than election day registrants, means identification that meets the following criteria:

(1) Iowa driver's licenses and nonoperator's identification cards used to establish identity pursuant to 2017 Iowa Acts, House File 516, section 27, shall be accepted up to 90 days after the expiration date listed on the license. It is still acceptable on the ninetieth day. An Iowa nonoperator's identification card that does not expire shall be considered current and valid.

(2) Veterans and military identification cards that do not contain an expiration date or that do not expire and voter identification cards issued pursuant to 2017 Iowa Acts, House File 516, section 18, shall be considered current and valid.

(3) For registration pursuant to Iowa Code section 48A.8, the proof of residence must be dated, or describe terms of residency current to, within 45 days prior to submission.

(4) All other forms of identification used to establish identity pursuant to 2017 Iowa Acts, House File 516, section 27, shall not be expired. An identification is still valid on the expiration date.

c. A current and valid identification may include a former address, when used for identification purposes only.

21.3(2) *Identification for election day registrants.*

a. A person who applies to register to vote on election day shall provide proof of identity and residence pursuant to Iowa Code section 48A.7A and 2017 Iowa Acts, House File 516, section 27, in the precinct where the person is applying to register and vote.

b. Any registered voter who attests for another person registering to vote at the polls on election day ~~shall be a registered voter of the same precinct~~ meet the requirements in Iowa Code section 48A.7A. The registered voter may be a precinct election official or a pollwatcher, but may not attest for more than one person applying to register at the same election.

c. Current and valid identification. "Current and valid" or "identification," for the purposes of election day registration, means identification that meets the following criteria:

(1) The expiration date on the identification card has not passed. An identification is still valid on the expiration date. An Iowa nonoperator's identification card that does not expire shall be considered current and valid.

(2) Veterans and military identification cards that do not contain an expiration date or that do not expire and voter identification cards issued pursuant to 2017 Iowa Acts, House File 516, section 18, shall be considered current and valid.

d. A current and valid identification may include a former address, when used for identification purposes only.

21.3(3) *Current and valid identification.*

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~~a. “Current and valid” or “identification,” for the purposes of this rule, means identification that meets the following criteria:~~

~~(1) The expiration date on the identification has not passed. An identification is still valid on the expiration date. An Iowa nonoperator’s identification that shows “none” as the expiration date shall be considered current and valid.~~

~~(2) The identification has not been revoked or suspended.~~

~~b. A current and valid identification may include a former address.~~

21.3(3) Proof of residence standards for all voters. Any person required to present proof of residence pursuant to Iowa Code sections 48A.7A and 48A.8 shall provide documentation that meets the following requirements:

a. The proof of residence document must be listed in Iowa Code section 48A.7A or 48A.8.

b. The document must be current within 45 days of election day, unless otherwise provided by law.

c. A residential lease’s stated term must include election day.

d. Property tax statements are current within 45 days of March 31 or the final payment date, if the final payment date is stated in the document.

21.3(4) Identification not provided. ~~A~~ After January 1, 2019, a person who ~~has been requested is required~~ to provide identification and does not provide it shall vote only by provisional ballot pursuant to Iowa Code section 49.81. However, a person who is registering to vote on election day pursuant to Iowa Code section 48A.7A may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct. A registered voter may only attest for one election day registrant.

21.3(5) Attesting to identity by signing oath. A person who cannot show proof of identity at the polls may swear to the oath appearing in 2017 Iowa Acts, House File 516, section 27(8). This provision is repealed effective January 1, 2019.

21.3(6) Determination of identity and residency. Proof of identity and residence of persons offering to vote is presumed valid unless the precinct election official determines the proof offered does not match the voter. In determining whether a person offering to vote is eligible under Iowa Code section 48A.7A and Iowa Code chapter 49, precinct election officials shall consider all of the information presented by the person offering to vote prior to determining that the person is not eligible. The following are factors that shall be considered by precinct election officials in making the determination:

a. Changes to the voter’s physical appearance or signature,

b. Time elapsed since the proof was generated, subject to the Iowa Code sections that govern the validity and expiration timelines of the proof,

c. Other documentation allowable under Iowa Code chapter 48A to prove the facts in question.

21.3(7) Post-election day proof of identity or residency. As of January 1, 2019, a person required to cast a provisional ballot under this rule may submit proof of identity or residence after election day. The proof must be received by the commissioner not later than 12 noon on the Monday following the election, or if the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, it must be received by the commissioner before the canvass for that election by the board of supervisors. Defects may be cured through the use of documentation as permitted under Iowa Code section 48A.7A or 2017 Iowa Acts, House File 516, section 27. If such defects are cured, the voter’s ballot shall be counted.

This rule is intended to implement Iowa Code sections 48A.7A and 49.77, 2017 Iowa Acts, House File 516, section 27, and P.L. 407-252, Section 303 the Help America Vote Act.

ITEM 3. Amend subrule 21.4(1) as follows:

21.4(1) To qualify to vote in the election being held that day, the voter shall:

a. Go to the polling place for the precinct where the voter lives on election day.

b. Complete a registration form showing the person’s current address in the precinct.

c. Present proof of residence and identity as required by ~~subrule~~ subrules 21.3(1) through 21.3(4).

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ITEM 4. Amend rule 721—21.5(49) as follows:

721—21.5(49) Eligibility declarations in the election register. To compensate for the absence of a separate declaration of eligibility form, the commissioner shall provide to each precinct a voter roster with space for each person who appears at the precinct to vote to print the following information: first and last name, address, date of birth, and, at the voter's option, telephone number, and, in primary elections, political party affiliation.

The roster forms shall include the name and date of the election and the name of the precinct, and may be provided on paper that makes carbonless copies. If a multicopy form is used, the commissioner shall retain the original copy of the voter roster with other records of the election.

This rule is intended to implement Iowa Code section 49.77.

ITEM 5. Amend rule 721—21.7(48A) as follows:

721—21.7(48A) Election day registration. In addition to complying with the identification provisions in rule 721—21.3(49,48A), precinct election officials shall comply with the following requirements:

21.7(1) Precinct election officials shall inspect the identification documents presented by election day registrants to verify the following:

a. The photograph shows the person who is registering to vote, and the document has not expired.

b. The name on the identification document is the same as the name of the applicant.

c. The address on the ~~identification~~ proof of residence document is in the precinct where the person is registering to vote and is current within 45 days.

21.7(2) Precinct election officials shall verify that each person who attempts to attest to the identity and residence of a person who is registering to vote on election day is a registered voter in the precinct and has not attested for any other voter in the election. The officials shall note in the election register that the person has attested for an election day registrant.

21.7(3) Precinct election officials shall permit any person who is in line to vote at the time the polls close to register and vote on election day if the person otherwise meets all of the election day registration requirements.

21.7(4) In precincts where an electronic program is not used to check the name of an election day registrant against the statewide list of felons who have had their right to vote revoked, ~~precinct~~ the voter shall be required to cast a provisional ballot. The voter shall be allowed to present evidence of the person's right to vote until 12 noon on the Monday following the election, or if the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, the evidence must be received by the commissioner before the canvass for that election by the board of supervisors. Precinct election officials shall provide each election day registrant with a "Notice to Election Day Registrants" prepared by the state commissioner before allowing the voter to register and vote on election day. The "Notice to Election Day Registrants" prepared by the state commissioner will be posted on the state commissioner's Web site.

This rule is intended to implement Iowa Code section 48A.7A.

ITEM 6. Adopt the following new rule 721—21.15(49):

721—21.15(49) Proof of residence or identification after casting provisional ballot. If a voter casts a provisional ballot pursuant to Iowa Code section 49.81 or 2017 Iowa Acts, House File 516, section 27, the voter must offer the required proof of residency or identification to vote in the polling place before the polls close on election day, or to the commissioner's office in order for the ballot to be counted. The proof must be received by the commissioner not later than 12 noon on the Monday following the election, or if the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, the proof must be received by the commissioner before the canvass for that election by the board of supervisors.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 27, and Iowa Code section 49.81 as amended by 2017 Iowa Acts, House File 516.

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ITEM 7. Adopt the following new rule 721—21.52(48A):

721—21.52(48A) Request for new voter identification card.

21.52(1) If a voter's identification card is lost or damaged, the registered voter may request a new card in person at the commissioner's office by showing identification, or by a written, signed request to the commissioner's office. Upon receiving the request, the commissioner shall print and mail a new voter identification card.

21.52(2) If the voter appears in person but does not have the correct form of identification, the commissioner shall verify the voter's identity by asking the voter to provide at least two of the following personal facts:

- a. Date of birth;
- b. Last four digits of the voter's social security number (if the number is stored within I-Voters);
- c. Driver's license or nonoperator's identification card number (if the number is stored within I-Voters);
- d. Address;
- e. Middle name;
- f. Voter verification number pursuant to Iowa Code section 53.2(4).

Upon the successful verification of the voter, the commissioner shall issue a new copy of the voter identification card over the counter. If the voter is unable to respond correctly to at least two of the questions in this subrule, the commissioner shall not issue a copy of the voter identification to the voter.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 18.

ITEM 8. Adopt the following new rule 721—21.76(48A):

721—21.76(48A) Electronic poll book training for poll workers. The state commissioner shall create and maintain training materials for poll workers relating to voter identification and the use of electronic poll books. The training materials shall be available from the state commissioner's Web site.

This rule is intended to implement Iowa Code section 48A.7A as amended by 2017 Iowa Acts, House File 516, section 16.

ITEM 9. Adopt the following new rule 721—21.77(49):

721—21.77(49) Photographing ballots. A voter may not use a photographic device to display a voted ballot if doing so interferes with other voters or the orderly operation of the polling location or violates any part of Iowa Code chapter 39A. The display shall only include the voter and the voter's ballot.

"Interferes," for purposes of this rule, means loitering, congregating, interrupting, or hindering a voter from approaching the poll booth for the purpose of voting, or while the voter is inside the enclosed voting space when marking a ballot.

This rule is intended to implement Iowa Code section 49.88 as amended by 2017 Iowa Acts, House File 516, section 38.

ITEM 10. Adopt the following new rule 721—21.101(47):

721—21.101(47) State commissioner's review of complaints. Upon receiving credible information that a commissioner may have violated a provision in Iowa Code chapters 39 through 52, the state commissioner shall require the commissioner to provide more information, or certification that the commissioner complied with the relevant law. The determination of credibility is solely at the discretion of the state commissioner. The state commissioner may require a complaining party to provide more information. The state commissioner may reject anonymous complaints without any additional inquiry. If it appears that the complaint originated from the commissioner's office, the state commissioner shall consult with the attorney general before proceeding.

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If the state commissioner determines that a commissioner has not sufficiently responded to the inquiry, the state commissioner may issue a notice of infraction pursuant to Iowa Code chapter 39A, or refer the matter to the appropriate law enforcement agency, or both.

This rule is intended to implement Iowa Code section 47.1 as amended by 2017 Iowa Acts, House File 516, section 41.

ITEM 11. Adopt the following new rule 721—21.102(49):

721—21.102(49) Commissioner's filings and notifications to state commissioner.

21.102(1) The commissioner shall certify to the state commissioner that all relevant election laws and requirements were followed as required by Iowa law. A form for the certification shall be published to the state commissioner's Web site, pursuant to 2017 Iowa Acts, House File 516, section 41.

21.102(2) The commissioner shall report each suspected incidence of election misconduct to the state commissioner regardless of proximity to any election, pursuant to 2017 Iowa Acts, House File 516, section 41(4). The commissioner shall provide to the state commissioner all updates as they are received by the commissioner from law enforcement.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 41.

ITEM 12. Amend subrule 21.203(1) as follows:

21.203(1) Required information. In addition to other requirements listed in the Iowa Code, general election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the county.
- c. Instructions for how to mark the ballot, including instructions for voting on judicial retentions and constitutional amendments or public measures ~~and instructions for straight party voting.~~
- d. Ballot location of the judges' names and any constitutional amendment(s).

ITEM 13. Amend subrule 21.301(3) as follows:

21.301(3) Absentee ballots received from a voter subsequently assigned "inactive" status.

a. The commissioner shall mail an absentee ballot to a voter if a voter's status is changed to "inactive" between the time the voter requested an absentee ballot and the time the absentee ballots are ready to mail. The commissioner shall also separately notify the voter of the requirement to provide identification and proof of residence before the ballot can be counted pursuant to paragraph 21.301(3)"c."

b. The commissioner shall set aside the absentee ballot of a voter whose status is changed to "inactive" pursuant to Iowa Code section 48A.26, subsection 6, after the voter has submitted the voter's absentee ballot.

c. Pursuant to Iowa Code section 53.31, the commissioner shall notify any voter assigned an "inactive" status subsequent to requesting or returning an absentee ballot that the voter's absentee ballot has been challenged and may be counted only if the voter personally delivers or mails a copy of the voter's identification and proof of residence as listed in Iowa Code section 48A.8 to the commissioner's office before the absentee and special voters precinct board convenes to count absentee ballots, or reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22. If the commissioner does not receive a copy of the voter's identification before the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the absentee and special voters precinct board shall reject the absentee ballot.

ITEM 14. Adopt the following new rule 721—21.306(53):

721—21.306(53) Incomplete absentee ballot applications. If the commissioner receives an absentee ballot request lacking any of the information required by 2017 Iowa Acts, House File 516, section 6(4)(a), the commissioner shall obtain the necessary information by the best means available pursuant to 2017 Iowa Acts, House File 516, section 6(4)(a). "Best means available," for the purposes of this rule, means contacting the voter directly by mail, e-mail, or telephone or in person. Commissioners may not use the voter registration system to obtain the information.

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21.306(1) If the voter does not have current access to the voter identification card, the commissioner shall verify the voter's identity by asking the voter to provide at least two of the following facts about the voter:

- a. Date of birth;
- b. Last four digits of the voter's social security number (if the number is stored within I-Voters);
- c. Driver's license or nonoperator's identification card number (if the number is stored within I-Voters);
- d. Address;
- e. Middle name;
- f. Voter verification number pursuant to Iowa Code section 53.2(4).

21.306(2) If an unregistered person offering to vote an absentee ballot pursuant to Iowa Code section 53.10 or 53.11 prior to the pre-registration deadline does not have an Iowa-issued driver's license, a nonoperator's identification card, or a voter identification card, the person may satisfy residence and identity requirements in the manner described by 2017 Iowa Acts, House File 516, section 27. This section shall also apply to a registered voter casting a ballot pursuant to Iowa Code section 53.10 or 53.11 who has not yet received a voter verification number.

21.306(3) This provision shall not apply to the absence of a preferred political party ballot for primaries held pursuant to Iowa Code section 53.2(5).

This rule is intended to implement Iowa Code section 53.2 as amended by 2017 Iowa Acts, House File 516, section 6.

ITEM 15. Adopt the following new rule 721—21.307(49,53):

721—21.307(49,53) Updating signatures on file. A registered voter may update the signature on record with the commissioner at any time. A commissioner shall not require a reason from the voter for the change. The state commissioner shall prescribe a form for the signature update. The form must include the voter's name and the voter's verification number. The form shall be published on the state commissioner's Web site. A written request with the required information shall not require the form. Upon receiving the signature update request, the commissioner shall verify the information on the form. If the required information is valid, the commissioner shall scan the form into I-Voters. This action shall be processed as a ministerial update and shall not be processed as a change to the voter registration record. If the registrant is attempting to vote pursuant to Iowa Code section 53.10 or 53.11, the registrant shall provide proof of identity prior to submitting the update.

This rule is intended to implement 2017 Iowa Acts, House File 516, section 27, and Iowa Code section 53.18 as amended by 2017 Iowa Acts, House File 516, section 31.

ITEM 16. Amend paragraph **21.359(5)“a”** as follows:

a. The process shall be witnessed by observers appointed by the county chairperson of each of the political parties referred to in Iowa Code section 49.13, subsection 2. If, after receiving notice from the commissioner pursuant to Iowa Code section 53.23, subsection 3, paragraph “a,” ~~either or both any of the political parties fail to appoint an observer~~ observers, the commissioner may continue with the proceedings.

ITEM 17. Rescind and reserve subrule **22.11(4)**.

ITEM 18. Rescind paragraph **22.41(1)“f.”**

ITEM 19. Amend rule 721—22.42(52) as follows:

721—22.42(52) Preparing test decks. The commissioner shall prepare test decks from all ballots printed for use in the election, including those for use at the polling places and for absentee balloting. Each of the following test decks shall be prepared for every precinct and ballot style in the election. Commissioners may use additional test methods to supplement the process described in this rule.

22.42(1) Requirements for all test decks prepared by the commissioner and used in public testing. The commissioner shall:

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- a. Replace ballots spoiled during the marking process instead of attempting to correct errors.
- b. Fill in each oval completely using the recommended pen, pencil or ~~AutoMARK-VAT~~ voter assist terminal.
- c. Mark each ballot "Test Ballot."
- d. Mark at least one valid vote for each candidate and question on the ballot using the OVI unit (if applicable). The ballots marked by the OVI unit may be used as part of the systematic or straight party test deck (if applicable).
- e. Mark at least one valid vote for each candidate and question on the ballot using the ImageCast Evolution or ImageCast Precinct with audio and printer (if applicable). The ballots marked by one of these units may be used as part of the systematic or straight party test deck (if applicable).

22.42(2) Required test method. The commissioner shall:

- a. Prepare a test plan showing the planned number of votes, including undervotes and overvotes for each oval on the ballot. Follow the instructions in subrules 22.42(3) through 22.42(5) in preparing the test decks.
- b. Mark the test ballots according to the test plan.
- c. Print a zero totals report from the optical scan tabulator before inserting any ballots.
- d. Insert the ballots into the optical scan tabulator and print a report showing the number of votes recorded for all offices, questions and judges, including undervotes and overvotes.
- e. Compare the printed report with the test plan to ensure that the correct number of votes was counted for each oval.
- f. If the commissioner finds errors, the commissioner shall identify and correct them. The commissioner shall repeat the testing process until the printed results from the tabulator match the test plan. If the commissioner cannot produce an errorless test, the equipment shall not be used in the election.

22.42(3) Systematic test deck. The commissioner shall determine a unique number of votes for each candidate in each office, such as one vote for each write-in oval for the office, two votes for the first candidate listed (or "NO" votes on public measures and judges), three votes for the second candidate, etc. It is not necessary to have a different number of votes for each write-in oval for offices for which the voter may select more than one candidate. However, the write-in oval shall have a different number of votes marked than any candidate for the office. The commissioner shall:

- ~~a.~~ ~~On general election ballots, leave the straight party choice blank.~~
- ~~b.~~ a. For offices without candidates, mark all of the write-in ovals for that office.
- ~~c.~~ b. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed on at least one ballot.
- ~~d.~~ c. On a ballot that contains at least one valid vote, overvote one other office or question.

22.42(4) System-specific testing requirements. Separate tests are prescribed for each certified voting system.

~~a.~~ *Election Systems & Software, Unisyn OpenElect and Dominion Democracy Suite—overvote and blank ballot test.* For an overvote and blank ballot test, the commissioner shall:

- (1) Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates' names on the ballot.
- ~~(2) If the test is for ballots that will be used in a general election, mark two straight party votes on one ballot. Do not mark any other ovals. In the test plan, this ballot should be tallied to show that the straight party selection was overvoted, and to show undervotes for all other offices and questions on the ballot.~~

~~(3)~~ (2) When the overvoted ballots are rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. Add to the manual tally the number of overvotes in this test. The tally for this part of the test deck will show no votes for any candidate.

~~(4)~~ (3) Insert a blank ballot. When the blank ballot is rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. This is a very important test of the accuracy of ballot printing. Printing errors sometimes put readable marks in the voting target area.

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~~(5)~~ (4) Orientation test. Mark the maximum number of choices for each office and question on one ballot.

Scan this ballot in each of the four possible orientations:

- Face up, head first.
- Face down, head first.
- Face up, feet first.
- Face down, feet first.

b. Premier Election Solutions.

- (1) Blank and fully voted test. The commissioner shall use two ballots for this test.
 1. Leave one ballot completely blank.
 2. On the second ballot, mark every oval on both sides of the ballot.
 3. Select "Test Blank Ballots" and insert the blank ballot in all four orientations:
 - Face up, head first.
 - Face down, head first.
 - Face up, feet first.
 - Face down, feet first.
 4. Select "Test Fully Voted Ballots" and insert the second ballot in each of the four orientations listed in numbered paragraph "3" above.
 5. Reinsert the blank ballot and the fully voted ballot and override the rejection feature.
- (2) Overvote. Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates' names on the ballot.

~~22.42(5) Straight party test for general elections.~~ For a straight party test, the commissioner shall:

~~a. For each set of ballots:~~

~~(1) Mark straight party votes in a pattern, such as one vote for the first straight party choice, two votes for the second, and so on, and tally the expected results. Do not mark anything else on this group of ballots.~~

~~(2) On a second set of ballots containing as many ballots as there are straight party choices, mark the straight party option and, for each office affected by the straight party vote, mark the write-in oval, and tally the expected results.~~

~~(3) If the election includes an at-large county supervisor race with more than one person to be elected, mark a ballot with only a straight party vote and then vote for one candidate from the same political party as the straight party vote. Only this separately marked candidate should receive a vote.~~

~~b. Compile the results of the straight party test deck.~~

ITEM 20. Amend paragraph **22.261(4)"b"** as follows:

b. Instructions for voters. The following instructions shall be printed on ballots:

- (1) Voting mark. "To vote, fill in the oval next to your choice."
- ~~(2) Straight party voting. "To vote for all candidates from a single party, fill in the oval in front of the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges or questions."~~
- ~~(3)~~ (2) Public measures. "Notice to voters. To vote to approve any question on this ballot, fill in the oval in front of the word 'Yes'. To vote against a question, fill in the oval in front of the word 'No'."

ITEM 21. Amend subrule 22.262(2) as follows:

22.262(2) Configuration choices. The following selections are mandatory for all elections:

a. Reject settings shall be configured as follows:

- (1) Return to voters ballots that include one or more overvoted races and blank-voted ballots. Include on the override log the number of times the override option was used for overvoted and blank-voted ballots.
- (2) Divert to the write-in ballot bin only ballots with write-in votes.
- (3) Do not include reject settings for blank voted races, undervoted races, ~~straight party overvotes, multiparty overvotes~~ or duplicate votes.

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b. Tally settings shall be as follows:

(1) ~~The straight party shall be “Exclusive.”~~

(2) The write-in setting shall be “Combined.”

ITEM 22. Amend paragraph **22.264(3)“b”** as follows:

b. Instructions for voters. The ballots shall contain instructions for voters, including:

(1) How to mark the ballot;

(2) ~~Straight party voting instructions in general elections as required by Iowa Code section 49.37;~~

(3) (2) Where to find the judicial ballot (if any); and

(4) (3) Constitutional amendment (if any) as required by Iowa Code section 49.48 and notices to voters on ballots with public measures (if any) as required by Iowa Code section 49.47.

ITEM 23. Amend paragraph **22.266(4)“b”** as follows:

b. Instructions for voters. The ballots shall contain instructions for voters, including:

(1) How to mark the ballot;

(2) ~~Straight party voting instructions in general elections as required by Iowa Code section 49.37;~~

(3) (2) Where to find the judicial ballot (if any); and

(4) (3) Constitutional amendment (if any) as required by Iowa Code section 49.48 and notices to voters on ballots with public measures (if any) as required by Iowa Code section 49.47.

ITEM 24. Rescind and reserve rule **721—26.19(49)**.

ITEM 25. Adopt the following new rule 721—28.6(48A):

721—28.6(48A) Cancellations and restorations of voter registration due to jury declination.

28.6(1) Based upon information provided to the state registrar by the state or federal judicial branch, the list of likely matches of ineligible voters shall be produced for each county and provided to each county registrar.

28.6(2) On a monthly basis, the state registrar shall, using predetermined search criteria, compare the list of declined jurors against the list of registered voters.

28.6(3) Within 15 days of the receipt of the list produced by the state registrar in accordance with 28.6(2), the county registrar shall review the list of likely matches, determine the accuracy of the search results and cancel the registrations of those voters found to be ineligible to vote. Notice shall be sent to the voter at the voter’s address in the voter registration file pursuant to Iowa Code section 48A.30(2). The notice shall provide the voter an opportunity to have the county registrar review any relevant information that establishes the voter’s eligibility to vote. When inclusion of a voter’s name on the list of likely matches is found to be inaccurate, the registrar shall mark the record as a “no match” and provide that information to the state registrar.

This rule is intended to implement Iowa Code section 48A.30 as amended by 2017 Iowa Acts, House File 516, section 4.

[Filed 10/18/17, effective 12/31/17]

[Published 11/8/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3448C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 314.1A, the Iowa Department of Transportation, on October 11, 2017, adopted amendments to Chapter 180, “Public Improvement Quotation Process for Governmental Entities,” Iowa Administrative Code.

The following explains each item in this rule making:

TRANSPORTATION DEPARTMENT[761](cont'd)

- Item 1 updates the title of Chapter 180 to add reference to vertical infrastructure. Item 2 makes changes to the rule explaining the purpose of the chapter to more accurately correspond to the content in Chapter 180. Items 1 and 2 clarify that the chapter affects competitive quotations for public improvement contracts for vertical infrastructure.

- Item 3 updates the contact information to correct the name of the office responsible for this chapter and to add a telephone number for the Office of Support Services.

- Item 4 adds a reference to Iowa Code chapter 26, Public Construction Bidding, to a parenthetical implementation statute and revises the definitions of “estimated total cost of a public improvement,” “governmental entity,” “public improvement,” and “repair or maintenance work” to refer to the definitions in Iowa Code section 26.2. The definitions within Iowa Code section 26.2 will be the definitions the Department uses in these rules for these specific terms.

- Item 5 updates the Department’s Web site reference. The Department’s main Web site address is used instead of a more specific link that may change. This Web site reference is consistent with changes made in other Department chapters.

Notice of Intended Action for these amendments was published in the August 30, 2017, Iowa Administrative Bulletin as **ARC 3269C**. One change from the Notice was made. To correct an inadvertent omission from the Notice, the parenthetical implementation statute of rule 761—180.3(314) in Item 4 was revised to add a reference to Iowa Code chapter 26.

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

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

These amendments are intended to implement Iowa Code sections 26.2, 26.14, 314.1A and 314.1B.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend **761—Chapter 180**, title, as follows:

**PUBLIC IMPROVEMENT QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES FOR
VERTICAL INFRASTRUCTURE**

ITEM 2. Amend rule 761—180.1(314) as follows:

761—180.1(314) Purpose. The purpose of these rules is to prescribe the manner by which governmental entities shall administer competitive quotations for public improvement contracts for vertical infrastructure, in accordance with Iowa Code section 26.14.

ITEM 3. Amend rule 761—180.2(314) as follows:

761—180.2(314) Contact information. Questions regarding this chapter may be directed to the Office of Facilities Support Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1299.

ITEM 4. Amend rule 761—180.3(314) as follows:

761—180.3(26,314) Definitions.

“Estimated total cost of a public improvement” means ~~the estimated total cost to the governmental entity to construct a public improvement, including the cost of labor, materials, equipment, and supplies, but excluding the cost of architectural or engineering design services and inspection as defined in Iowa Code section 26.2.~~

“Governmental entity” means ~~the state, political subdivisions of the state, public school corporations, and all officers, boards, or commissions empowered by law to enter into contracts for the construction of public improvements, excluding the state board of regents and the state department of transportation as defined in Iowa Code section 26.2.~~

“Public improvement” means ~~a building or construction work which is constructed under the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity,~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under Iowa Code chapter 419, emergency work or repair or maintenance work performed by employees of a governmental entity, and excluding a highway, bridge, or culvert project, and excluding construction or repair or maintenance work performed for a city utility under Iowa Code chapter 388 by its employees or performed for a rural water district under Iowa Code chapter 357A by its employees as defined in Iowa Code section 26.2.~~

~~“Repair or maintenance work” means the preservation of a road, street, bridge, culvert, storm sewer, sanitary sewer, or other public facility (vertical infrastructure) so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility to its original condition with the same design as defined in Iowa Code section 26.2.~~

~~“Responsible quotation” means a quotation submitted by a contractor who is capable of performing the work. To be considered responsible, the contractor must possess the necessary financial and technical capability to perform the work, as well as the ability to complete the work as demonstrated by past performance or other appropriate considerations.~~

~~“Responsive quotation” means a quotation in which the contractor agrees to do everything required by the governmental entity’s solicitation of quotations and by the plans and specifications and other related documents, without any conditions, qualifications or exclusions.~~

~~“Vertical infrastructure” means buildings, all appurtenant structures, utilities, incidental street improvements including sidewalks, site development features, recreational trails, and parking facilities. Vertical infrastructure does not include any work constructed in conjunction with or ancillary to highway, street, bridge or culvert projects, including but not limited to utilities and sidewalks.~~

ITEM 5. Amend subrule 180.5(1) as follows:

180.5(1) A governmental entity shall solicit competitive quotations for a public improvement when the estimated total cost of the public improvement exceeds the competitive quotation threshold established in Iowa Code section 26.14, as adjusted pursuant to Iowa Code section 314.1B, but is less than the competitive bid threshold established in Iowa Code section 26.3, as adjusted pursuant to Iowa Code section 314.1B. The adjusted thresholds are published on the ~~following Web site: http://www.iowadot.gov/local_systems/publications/bid_limits.htm~~ department’s Web site at www.iowadot.gov.

[Filed 10/11/17, effective 12/13/17]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3449C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 321.20, the Iowa Department of Transportation, on October 18, 2017, adopted amendments to Chapter 400, “Vehicle Registration and Certificate of Title,” Iowa Administrative Code.

The Department is adopting amendments to Chapter 400 to comply with 2016 Iowa Acts, Chapter 1083, sections 1 and 2, which amended Iowa Code section 321.20. The amendments define the specific process requirements for an electronic application for a vehicle title and registration transaction, including the roles and responsibilities of an electronic registration and titling (ERT) service provider approved by the Department to facilitate electronic applications for vehicle titles and registrations from an end user (a motor vehicle dealer or an individual) to the county treasurer. Subrule 400.3(16) serves as a basis for agreements that may be executed between the Department and an approved ERT service provider.

The following explains each item in this rule making:

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Item 1 adds definitions for new terms used within the chapter, specifically, definitions of “electronic,” “electronic record,” “electronic signature,” “end user,” and “ERT service provider.”

Item 2 adds language which states that an application for certificate of title or registration may be submitted in an electronic format.

Item 3 provides that the signature of an applicant for a certificate of title or registration may be submitted in an electronic format.

Item 4 provides that a dealer certification regarding the sale price of a vehicle, the amounts allowed for property traded in, nontaxable charges and rebates, the tax price of the vehicle, the date that a “registration applied for” card was issued, and the registration fee may be submitted in an electronic format when the application for a certificate of title or registration is also submitted electronically.

Item 5 adds new subrule 400.3(16) to define the roles, responsibilities, and requirements of the ERT process that will serve as the basis for an agreement between the Department and an approved ERT service provider. The following further explains the paragraphs within subrule 400.3(16):

- Paragraph “a” explains the role of an ERT service provider in the electronic application process. Specifically, this paragraph identifies that an application for a certificate of title or registration of a vehicle may be submitted electronically via a Web-based service that is offered and maintained by an ERT service provider. Paragraph “a” provides that an ERT service provider must execute an authorizing agreement with the Department and that the terms of the agreement are prescribed by the Department. Additionally, the paragraph states that the ERT service provider must meet minimum qualifications in relation to technical, financial, legal, and administrative capacity to meet the Department’s satisfaction and also retain the ability and capacity to interface with the Department’s vehicle title and registration system. Lastly, the paragraph provides that the authorizing agreements between the Department and an ERT service provider shall include provisions that address security, financial responsibility, privacy, termination, and any other matters deemed appropriate by the Department.

- Paragraph “b” provides that an ERT service provider shall execute an authorizing agreement with the Department as a condition of operating in such a capacity and also provides the liability provisions which specify that an ERT service provider shall be fully liable for any liabilities the provider incurs as a result of its actions as an agent for an end user, which may be a person or a business using the ERT service.

- Paragraph “c” provides that an authorized ERT service provider may establish Web-based services to allow end users to submit electronic applications for a certificate of title or registration to a county treasurer via the Department’s ERT process and application program interface established by the Department. The paragraph provides that an ERT service provider is not in any manner a vendor for the Department. Instead, the ERT service provider acts as a contractor or vendor for an end user, and the end user’s sole course of recourse is against the ERT service provider and not the Department. The paragraph also allows the ERT service provider to charge the end user a fee for its services.

- Paragraph “d” provides that an end user that is a licensed motor vehicle dealer may charge the dealer’s customer a separate and distinct fee for the ERT provider’s services as long as the dealer discloses the charge to the customer before submitting the application. However, that fee may not be included as a part of the documentary fee. The paragraph also confirms that no fees may be charged for a “registration applied for” card.

- Paragraph “e” confirms that an authorized ERT service provider does not have the authority to approve or deny a certificate of title or registration application and that an application is not considered submitted to the county treasurer until it is electronically submitted to the county treasurer by the ERT service provider. Paragraph “e” also confirms that the county treasurer remains responsible for approving or denying an application for a certificate of title or registration.

- Paragraph “f” states that an authorized ERT service provider is responsible for the ERT service provider’s payment solution and for all payment transaction security and compliance with all applicable standards associated with the payment solution or solutions offered by the ERT service provider. Further, paragraph “f” provides that the ERT service provider shall route the pertinent application fees to an account designated by the county treasurer. The fees shall be available to the county treasurer no later than three business days following the submission of a transaction for which the fees were paid. The

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paragraph also confirms that the ERT service provider shall be responsible for reconciling insufficient funds from an end user.

- Paragraph “g” provides that the fees submitted with an electronic application for certificate of title or registration are not deemed received by the county treasurer until the fees are received into the county treasurer’s account via the completion of an automated clearing house (ACH) transfer. Additionally, paragraph “g” requires an ERT service provider to furnish a surety bond that runs to the state of Iowa in the amount of \$150,000 and requires the ERT service provider to indemnify any end user that uses the services from loss or damage caused by the ERT service provider’s noncompliance. The paragraph provides that the bond shall be filed with the Department before the ERT service provider may be approved to begin offering services as an ERT service provider.

- Paragraph “h” provides that an ERT service provider shall provide accounting reports of all fees received and transferred to each county treasurer, in a manner prescribed by the Department.

- Paragraph “i” provides that an ERT service provider shall submit to audits by the Department and the State Auditor. The audits are required annually but may be more frequent if determined necessary by the Department or the State Auditor.

- Paragraph “j” provides that an electronically submitted application for certificate of title or registration must meet all legal requirements for the transaction, that no requirements shall be excused or waived as a result of the electronic submittal of the transaction, and that the requisite signatures may be submitted electronically. The county treasurer retains the right to determine the genuineness, regularity, and legality of the application and may, whenever there is any question about the application, require the original document as a condition of accepting an application. Further, paragraph “j” requires the end user that submitted the application to retain any original document scanned and submitted with the electronic application for three years at the end user’s principal place of business if the end user is a business. However, the paragraph provides that a damage disclosure statement shall be retained for five years from the date of the application where required by Iowa Code section 321.69. Lastly, the paragraph requires that all of the scanned documents submitted as a component of an electronic application shall be available for inspection by the Department. This requirement aligns with the current requirements and departmental procedures for paper applications.

- Paragraph “k” requires an end user that is a licensed motor vehicle dealer to inform the customer that the application for title or registration will be submitted electronically. Paragraph “k” requires the motor vehicle dealer to obtain the customer’s power of attorney to permit the motor vehicle dealer to submit the application on the customer’s behalf and to scan the power of attorney with the electronic documents as a part of the application. The paragraph further requires the dealer to retain the power of attorney for three years at the dealer’s principal place of business and provides that the power of attorney is subject to inspection by the Department. In the interest of consumer protection, paragraph “k” also requires the dealer to review the details of the entire application with the customer before submitting the electronic application and to provide the customer with a copy of the application after submitting it.

- Paragraph “l” provides that an authorized ERT service provider shall retain all data, information, records, and electronic records associated with an electronic application or transaction submitted or transacted through the ERT service provider for a period of at least three years, or longer as required by applicable state or federal law or regulation, and shall make all such data, information, and records available to the Department at the Department’s request. Further, paragraph “l” requires the ERT service provider to use a secure profile management capable of authenticating and verifying any user that initiated the submission for an application or transaction.

- Paragraph “m” provides that an ERT service provider shall comply with the privacy protections and requirements of Iowa Code section 321.11 and with the federal Driver’s Privacy Protection Act, 18 U.S.C. Sec. 2721 et seq. (DPPA), and shall only use or release personal information provided to the ERT provider in the course of an ERT transaction for purposes necessary to perform services as an ERT service provider, and shall not release such personal information for any other purpose or use except as required to comply with legal or administrative matters as permitted under the DPPA. The paragraph also states that the ERT service provider shall immediately advise the Department and any potentially

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affected individual if there is a suspected or actual unauthorized release of personal information or highly restricted personal information.

Item 6 updates the implementation sentence of rule 761—400.3(321) to add a reference to Iowa Code sections 321.105A and 322.19A and to strike the reference to Iowa Code section 423.7A since this section was repealed.

Item 7 provides that the county treasurer is exempted from retaining the supporting documents submitted as a component of an electronic application for a certificate of title or registration. County treasurers are still required to maintain any paper applications.

Notice of Intended Action for these amendments was published in the September 13, 2017, Iowa Administrative Bulletin as **ARC 3306C**. These amendments are identical to those published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code sections 321.20 and 322.19A.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of “Electronic,” “Electronic record,” “Electronic signature,” “End user” and “ERT service provider” in rule **761—400.1(321)**:

“*Electronic*” means as defined in Iowa Code section 554D.103.

“*Electronic record*” means as defined in Iowa Code section 554D.103.

“*Electronic signature*” means as defined in Iowa Code section 554D.103.

“*End user*” means a person or entity that directly uses the services of an electronic registration and titling (ERT) service provider to submit an electronic application for certificate of title or registration of a vehicle.

“*ERT service provider*” means a person or entity authorized by the department under subrule 400.3(16) to submit electronic applications for certificate of title or registration of a vehicle on behalf of an end user to a county treasurer.

ITEM 2. Amend subrule 400.3(1) as follows:

400.3(1) Application form. To apply for a certificate of title or registration for a vehicle, the owner of the vehicle shall complete an application form prescribed by the department, which may be electronic. Application shall be made in accordance with Iowa Code chapter 321, these rules, and other applicable provisions of law.

ITEM 3. Amend subrule 400.3(10) as follows:

400.3(10) Signature of applicant. The owner shall sign the application form in ink, unless submitted electronically.

ITEM 4. Amend paragraph **400.3(11)“b”** as follows:

b. The certification shall include the dealer's number and name and shall be signed by the dealer or an authorized representative of the dealer. The signature may be electronic when the application form is submitted electronically in a manner approved by the department.

ITEM 5. Adopt the following **new** subrule 400.3(16):

400.3(16) Electronic applications.

a. Applications for certificate of title or registration of a vehicle may be submitted electronically via Web-based services offered and maintained by ERT service providers authorized by the department. To be authorized to serve as an ERT service provider, the ERT service provider must establish to the satisfaction of the department that the ERT service provider has the technical, financial, legal, and administrative capacity to meet the department's requirements for submission of electronic applications and must execute an agreement, in a form and content determined by the department, that authorizes and permits the ERT service provider to interact with the department's vehicle title and registration

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system via an application program interface established by the department and to submit electronic applications on behalf of end users that choose to use the ERT service provider's services to submit an application electronically. Agreements executed by ERT service providers under this paragraph shall include provisions that address security, financial responsibility, privacy, termination, and any other matters deemed appropriate by the department.

b. An agreement executed by an ERT service provider is a condition of authorization and permission only. An ERT service provider authorized by the department is not a contractor, vendor, employee, or agent for the department, the state of Iowa, or any county treasurer accepting electronic applications, and shall not be entitled to compensation from the department, the state of Iowa, or any county treasurer for any service, transaction, or other act rendered as an ERT service provider. The ERT service provider remains solely liable and responsible for the ERT service provider's services and activities as an ERT service provider and shall defend, indemnify and hold harmless the department, any county treasurer, the state of Iowa, and its, or their agents, officers, heirs, assigns, and employees of and from any and all damages, claims, penalties, debts owed, or any other form of liability arising from or related to the ERT service provider's service, performance, errors, acts, or omissions. An ERT service provider that chooses to provide service under the department's permission and authorization does so at the ERT service provider's sole risk and has no claim or right against the department, any county treasurer, or the state of Iowa for fees, costs, profits, loss of profits, interruption of business, or any other form of compensation, remuneration, liability, or damages arising from or related to the ERT service provider's activity as an ERT service provider or inability to serve as an ERT service provider.

c. An ERT service provider authorized by the department may establish Web-based services to allow end users to submit applications via an electronic interface established and maintained by the ERT service provider and to submit the applications on behalf of the end user to county treasurers via the department's vehicle title and registration system and application program interface established by the department. In doing so, the ERT service provider is acting as a contractor or vendor for the end user and not the department, any county treasurer, or the state of Iowa, and remains solely responsible to the end user for any failure to perform or breach of performance or agreement. When the end user is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C, "end user" includes the motor vehicle dealer and any person with an interest in the vehicle that is the subject of the application. The ERT service provider may charge the end user a fee for services rendered as an ERT service provider.

d. In addition to the documentary fee authorized under Iowa Code section 322.19A, an end user that is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C may pass and charge to a customer the fees or costs incurred by the motor vehicle dealer to submit the customer's application through an ERT service provider's services as a third-party cost or fee under Iowa Code section 322.19A(1), provided that the motor vehicle dealer discloses the charge to the customer before submitting the application. The documentary fee charged by the motor vehicle dealer shall not exceed the amount authorized by Iowa Code section 322.19A(3). Neither the ERT service provider nor the motor vehicle dealer shall charge a customer for creation or delivery of a "registration applied for" card.

e. An ERT service provider authorized by the department has no authority to approve or deny applications. Acceptance of an application by an ERT service provider is not approval of the application. An application is not considered to be formally submitted until it is electronically transmitted by the ERT service provider to the county treasurer via the department's vehicle title and registration system and the application program interface established by the department. The county treasurer remains responsible for approving or denying the application and may reject the application for any reason permitted or required by state or federal law or regulation.

f. An authorized ERT service provider is responsible for the ERT service provider's payment solution and for all payment transaction security and compliance with all applicable standards associated with the payment solution or solutions offered by the ERT service provider. The ERT service provider shall transfer title and registration fees collected by the ERT service provider directly to an account designated by the county treasurer responsible for the transaction via automated clearing house (ACH) transfer and the fees shall be available to the county treasurer no later than three business days following the submission of a transaction for which the fees were paid. Funds received by the ERT service provider

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shall be held until transfer to the county treasurer's account in a bank insured by the Federal Deposit Insurance Corporation. The ERT service provider shall be responsible for reconciling insufficient funds from an end user.

g. Fees submitted electronically are not deemed to be received until deposited into the county treasurer's account via completion of the ACH transfer. The end user remains responsible for fees submitted via an ERT service provider and the end user's responsibility for payment of any required fees is not waived or excused by the ERT service provider's failure to complete the transfer. As a condition of authorization and permission to serve as an ERT service provider and before the ERT service provider may offer services, the ERT service provider shall furnish a surety bond executed by the ERT service provider as principal and executed by a corporate surety company, licensed and qualified to do business within the state of Iowa. The bond shall run to the state of Iowa, be in the amount of \$150,000 and be conditioned upon the faithful compliance by the ERT service provider of all obligations imposed upon the ERT service provider by any applicable state or federal law or regulation, including the terms of this chapter, the authorizing agreement executed by the ERT service provider under this chapter, and any terms or conditions existing between the ERT service provider and any end user using the ERT service provider's services. The ERT service provider shall indemnify any end user that uses the ERT service provider's services of and from any loss or damage occasioned by the failure of the ERT service provider to so comply, including but not limited to the complete and timely submission to the county treasurer of the title and registration fees required for a given transaction. The bond shall be filed with the department before the ERT service provider may begin or offer services as an ERT service provider. The aggregate liability of the surety shall not exceed the amount of the bond.

h. The ERT service provider shall provide accounting reports of all fees received and transferred to each respective county treasurer, in a manner determined by the department.

i. The ERT service provider shall submit to audits by the department and the state auditor, which shall be at least yearly but may be more frequently if determined necessary by the department or the state auditor.

j. An application submitted electronically must meet all legal requirements for the transaction in question, and no requirement shall be excused or waived as a result of submitting the transaction electronically. However, wherever a signature is required, the signature may be an electronic signature, as determined by the department and according to methods approved by the department. Wherever an electronic solution approved by the department requires the submission of scanned documents, the scanned documents shall be of a quality and resolution determined by the department, which shall at a minimum meet any applicable state or federal standard or requirement, and shall completely capture and represent the original document. The department and any county treasurer processing an application retain the right under Iowa Code section 321.13 to determine the genuineness, regularity, and legality of the application and any scanned document submitted as part of the application and may withhold approval of the application and require presentation of the original document whenever the scanned document is of insufficient quality, content, or appearance to determine the same. An end user that submits a scan of an original document as part of an electronic application shall retain the original document for a period of three years. An end user shall make all such original documents available for inspection by the department at the department's request. An end user that is a business entity shall retain the documents at the end user's principal place of business in Iowa. Anything in this paragraph notwithstanding, lessors required to retain a damage disclosure statement under Iowa Code section 321.69(4), and authorized vehicle recyclers licensed under Iowa Code chapter 321H and motor vehicle dealers licensed under Iowa Code chapter 322 required to retain damage disclosure statements under Iowa Code section 321.69(6) shall retain the original document for a period of five years from the date of the statement, as required therein.

k. An end user that is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C and that electronically submits an application on behalf of the person to whom the dealer is transferring the vehicle shall disclose to the person that the application will be submitted electronically and shall obtain the person's power of attorney to submit the application on the person's behalf. The power of attorney shall be retained at the motor vehicle dealer's principal place of business for a period

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of three years from the date of application and shall be available for inspection by the department at the department's request. The motor vehicle dealer shall also review with and disclose to the person all details of the application, before submitting the application, and shall provide a complete, true, and accurate copy of the application to the person immediately after submitting the application. The power of attorney shall be submitted electronically as a scanned document with the electronic application.

l. An authorized ERT service provider shall retain all data, information, records, and electronic records associated with an electronic application or transaction submitted or transacted through the ERT service provider for a period of at least three years, or longer as required by applicable state or federal law or regulation, and shall make all such data, information, and records available to the department at the department's request. This includes but is not limited to the identity of the end user that initiated the electronic application or transaction. Identity information for end users shall be maintained at the entity and individual level, meaning that the ERT service provider must implement and maintain secure profile management that is capable of authenticating and verifying the identity of any entity that initiated the application or transaction and the individual officer, employee, or agent within the entity that was authorized by the entity to initiate the application or transaction.

m. The ERT service provider shall hold and protect all personal information as required by Iowa Code section 321.11 and the federal Driver's Privacy Protection Act, 18 U.S.C. § 2721 et seq. (the DPPA), shall only use or release such personal information for purposes necessary to perform services as an ERT service provider, and shall release such personal information for no other purposes or use except as required to comply with legal or administrative matters as permitted under the DPPA. The ERT service provider shall immediately advise the department of any suspected or actual unauthorized release of personal information or highly restricted personal information and shall notify the entity and individual whose personal information or highly restricted personal information was released in an unauthorized manner.

ITEM 6. Amend rule **761—400.3(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23 to 321.26, 321.31, 321.34, 321.46, ~~321.105A~~, 321.109, 321.122 and ~~423-7A~~ 322.19A.

ITEM 7. Amend subrule 400.4(10) as follows:

400.4(10) *Supporting document retained by county treasurer.* All supporting documents, except those submitted pursuant to subrule 400.3(16), shall be retained by the county treasurer.

[Filed 10/18/17, effective 12/13/17]

[Published 11/8/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3450C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321L.2 and 321L.8, the Iowa Department of Transportation, on October 18, 2017, adopted amendments to Chapter 401, "Special Registration Plates," and rescinded Chapter 411, "Persons With Disabilities Parking Permits," Iowa Administrative Code, and adopted a new Chapter 411 with the same title.

Because there have been two significant statutory changes that affect the administration of permanent (nonexpiring) parking placards for persons with disabilities, the Department is rescinding existing Chapter 411 and adopting a new Chapter 411. Establishing a new chapter makes it easier for the Department to adopt a rule structure that aligns with the new statutory requirements and the procedures the Department has adopted to implement them and makes it easier for users to follow and understand.

The first statutory change was made by 2016 Iowa Acts, chapter 1067, which amended Iowa Code section 321L.2 to end the issuance of nonexpiring parking placards for persons with permanent

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disabilities. Under amended Iowa Code section 321L.2, placards issued on or after January 1, 2017, to persons with permanent disabilities may no longer be nonexpiring placards that have no expiration date, but instead must be “standard” placards that are valid only for a period of five years and that may be reissued every five years upon proof of continued medical need. Because the effective date provisions of this Act specified that the Act does not affect the validity of nonexpiring persons with disabilities placards issued before January 1, 2017, a nonexpiring placard issued before January 1, 2017, will remain valid unless and until it is either lost, damaged, stolen, revoked, relinquished, or otherwise canceled or terminated pursuant to Iowa Code chapter 321L and 761—Chapter 411.

2016 Iowa Acts, chapter 1067, retained the requirement that a parking placard be displayed only when the vehicle is parked in a persons with disabilities parking space, but added the requirement that the placard be displayed in a manner that allows the entire placard to be visible through the vehicle’s windshield.

The second statutory change was made by 2016 Iowa Acts, chapter 1111, which amended Iowa Code section 321L.2 to add a provision specific to veterans. Before this legislation, under Iowa Code section 321L.2, a person applying for a persons with disabilities parking permit could demonstrate eligibility for the permit only by including a statement from a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state, written on the physician’s, physician assistant’s, nurse practitioner’s, or chiropractor’s stationery, that stated the nature of the person’s disability and such additional information as required by rules adopted by the Department under Iowa Code section 321L.8. The legislation retained this requirement and retained the existing definition of an eligible disability, but added another option for persons who are veterans and have a veterans disability rating from the U.S. Department of Veterans Affairs. Under the legislation, the Department may accept a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement from a physician, physician assistant, advanced registered nurse practitioner, or chiropractor. The legislation specified that the Department may adopt rules pursuant to Iowa Code chapter 17A detailing the requirements for an acceptable certification of disability from the U.S. Department of Veterans Affairs. Because the U.S. Department of Veterans Affairs has advised that its disability ratings are issued for vocational disability and cannot be correlated to the definition of “person with a disability” set forth in Iowa Code section 321L.1(8), which covers only disabilities that result in an impairment of mobility, the Department’s rules provide that a veteran who submits a certification of disability from the U.S. Department of Veterans Affairs in lieu of a statement from a physician, physician assistant, advanced registered nurse practitioner, or chiropractor must include a self-certification that the veteran is a person with a disability as defined in Iowa Code section 321L.1(8).

New Chapter 411 aligns with these statutory changes and the statutory requirements that were retained, as well as with Department procedures adopted to implement the statutory requirements. In addition, the changes, which are incorporated in new Chapter 411, eliminate unnecessary or outdated language; adopt and use consistent terms and phrases throughout the chapter; and generally make the language used throughout the chapter clearer and easier to understand and follow.

The changes that are being incorporated into new Chapter 411 include the following:

- Rule 761—411.1(321L) reflects updates to the name of the responsible office and provides the physical and electronic locations at which applications may be obtained.
- Rule 761—411.2(321L) defines terms used throughout the chapter and incorporates the definitions included in Iowa Code section 321L.1.
- Rule 761—411.3(321L) addresses the application process, including where applications may be obtained and submitted, the required content of applications, the additional information needed for applications that are submitted by organizations, and what procedural requirements must be followed if a person chooses to submit a certification of disability from the U.S. Department of Veterans Affairs.
- Rule 761—411.4(321L) addresses the requirements that apply to removable windshield placards and specifically addresses the validity of nonexpiring placards issued before January 1, 2017; the issuance and period of validity for standard placards issued on or after January 1, 2017, to persons

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with a permanent disability and the conditions and process for renewing standard placards; the issuance and period of validity for temporary placards issued to persons with a temporary disability and the conditions and process for renewing temporary placards; and the issuance and period of validity for organizational placards and the conditions and process for renewing organizational placards; as well as the manner in which placards must be displayed, all in accordance with Iowa Code section 321L.2.

- Rule 761—411.5(321L) explains the eligibility, validity, and display requirements for a persons with disabilities special registration plate parking sticker, including who is eligible for the sticker and which circumstances must be met in order to qualify for the sticker, and clarifies the period of validity and the manner in which the sticker must be displayed.

- Rule 761—411.6(321L) maintains a reference to 761—Chapter 401 for information on persons with disabilities special registration plates.

- Rule 761—411.7(321L) reflects revisions relating to “return of persons with disabilities parking permit” to better describe the process for returning a placard to the Department and to separate this process from the revocation of a parking permit, which is described in rule 761—411.8(321L).

- Rule 761—411.8(321L) includes clarifying language regarding the revocation of a persons with disabilities parking permit to better describe the departmental practice for revoking a parking permit and to explain the process and timelines pertaining to the revocation of a persons with disabilities parking permit. Specifically, this rule describes the process for the revocation notice, effective date, service of notice, and the departmental verification of notice.

- Rule 761—411.9(321L) includes clarifying language regarding the appeal process to better describe the existing practice relating to appeal options and to describe the appeal process as it pertains to a persons with disabilities parking permit. The rule addresses the informal settlement, contested case and notice requirements that are defined in 761—Chapter 13.

Because the Department is making the above changes to Chapter 411, the Department is also making conforming amendments to rule 761—401.20(321). This rule concerns persons with disabilities plates. The amendments to the rule comply with Iowa Code section 321L.2 and the requirements in 761—Chapter 411.

Notice of Intended Action for these amendments was published in the September 13, 2017, Iowa Administrative Bulletin as **ARC 3304C**. These amendments are identical to those published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code sections 321.34, 321L.1 to 321L.4 and 321L.8.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 761—401.20(321) as follows:

761—401.20(321) Persons with disabilities plates.

401.20(1) Application. Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer on a form prescribed by the department.

a. The application shall ~~include a signed statement written on the physician’s, chiropractor’s, physician assistant’s or advanced registered nurse practitioner’s letterhead. The statement comply with the requirements of 761—subrule 411.3(2) and~~ shall certify that the owner or the owner’s child is a person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.

b. No change.

c. ~~A new application form is not required when an individual’s application for issuance of persons with disabilities plates, disabled veteran plates, nonexpiring removable windshield placards or parking stickers has previously been approved.~~

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~~d. c.~~ In lieu of submitting the ~~signed medical~~ statement of disability required under ~~paragraph 401.20(1) "a,"~~ in 761—subrule 411.3(2), an individual who is eligible for disabled veteran plates but has not been issued them may submit certification from the U.S. Department of Veterans Affairs that the United States government has provided or assisted in providing a motor vehicle to the individual.

401.20(2) No change.

401.20(3) *Renewal.* The owner shall, at renewal time, ~~provide a self-certification stating that the owner or the owner's child is still a person with a disability and, if the person with a disability is the owner's child, that the child still resides with the owner~~ submit a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the owner or the owner's child remains permanently disabled and has a continuing need for the plates.

ITEM 2. Rescind 761—Chapter 411 and adopt the following **new** chapter in lieu thereof:

CHAPTER 411
PERSONS WITH DISABILITIES PARKING PERMITS

761—411.1(321L) Information and applications. Information and applications regarding persons with disabilities parking permits are available, electronically or otherwise, by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278, in person at 6310 SE Convenience Blvd., Ankeny, Iowa, by telephone at (515)237-3110, by facsimile at (515)237-3056, or on the department's Web site at www.iowadot.gov.

761—411.2(321L) Definitions.

411.2(1) The definitions in Iowa Code section 321L.1 are hereby made part of and fully incorporated in this chapter.

411.2(2) As used in this chapter, unless the context otherwise requires:

"Health care provider" means a physician licensed under Iowa Code chapter 148 or 149, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or a chiropractor licensed under Iowa Code chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state as set forth in Iowa Code section 321L.2(1).

"Nonexpiring removable windshield placard" means a removable windshield placard issued on or before December 31, 2016, to a person with a permanent disability.

"Organization" means an applicant that is a corporation, partnership, sole proprietorship, business trust, estate, trust, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity lawfully doing business in the state of Iowa that has a program for transporting persons with disabilities or elderly persons.

"Permanent disability" means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability will continue indefinitely without resolution and is reasonably expected to last the applicant's lifetime.

"Standard removable windshield placard" means a removable windshield placard issued on or after January 1, 2017, to a person with a permanent disability.

"Statement of disability" means a communication, electronic or otherwise, originating from the applicant's health care provider, which attests that the applicant is a person with a disability as defined in Iowa Code section 321L.1(8). The statement must state the nature of the applicant's disability and indicate whether the applicant's disability is "temporary" or "permanent." If the disability is temporary, the statement shall state the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued, not to exceed six months. The statement must reasonably identify, on or within its contents, that it originated from the applicant's health care provider.

"Temporary disability" means an applicant is a person with a disability as defined in Iowa Code section 321L.1(8) and the disability is not permanent and is reasonably expected to last for only a limited period of time.

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“Temporary removable windshield placard” means a removable windshield placard issued to a person with a temporary disability.

761—411.3(321L) Application for persons with disabilities parking permit.

411.3(1) General. An applicant shall submit a completed application for a persons with disabilities parking permit, including required supporting documentation, pursuant to this chapter and Iowa Code section 321L.2.

a. An applicant may request one of the following persons with disabilities parking permits by completing Form 411055:

- (1) Temporary removable windshield placard.
- (2) Standard removable windshield placard.
- (3) Persons with disabilities special registration plate parking sticker.
- (4) Persons with disabilities special registration plates. An applicant seeking persons with disabilities special registration plates must also submit an application as described in rule 761—401.20(321).

b. An organization seeking a persons with disabilities removable windshield placard shall complete Form 411355. An application made by an organization does not have to include a statement of disability.

411.3(2) Application requirements. An application shall include the applicant’s full legal name, address, date of birth, social security number or Iowa driver’s license number or Iowa nonoperator’s identification number, and a statement of disability from the applicant’s health care provider. However, if the application is made on behalf of a person who is less than one year old, the application does not have to include a social security number, Iowa driver’s license number, or nonoperator’s identification card number for the person. In lieu of a statement of disability from a health care provider, an applicant who is certified by the U.S. Department of Veterans Affairs as having a permanent disability may submit both of the following with an otherwise completed persons with disabilities parking permit application:

a. Proof that the applicant is the subject of a certification of disability from the U.S. Department of Veterans Affairs.

b. A self-certification, verified under penalty of perjury, that states the nature of the applicant’s disability and attests that the disability certified by the U.S. Department of Veterans Affairs is a permanent disability that impairs the applicant’s mobility to the extent defined in Iowa Code section 321L.1(8). The self-certification must be attested to on the persons with disabilities parking permit application.

411.3(3) Availability of application. Applications may be obtained from any of the following:

- a.* The department’s Web site as set forth in rule 761—411.1(321L).
- b.* The department’s office of vehicle and motor carrier services.
- c.* A driver’s license station.
- d.* A county treasurer’s office.
- e.* The Office of Persons with Disabilities, Iowa Department of Human Rights, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

411.3(4) Application submission. Completed applications shall be submitted, electronically or otherwise, to any of the following:

- a.* The department’s office of vehicle and motor carrier services.
- b.* A driver’s license station.
- c.* A county treasurer’s office.

411.3(5) Application submitted by an organization. An application submitted by an organization shall include the name, mailing address, telephone number, signature of its authorized representative, and if required to obtain one, the organization’s federal employer identification number or federal tax identification number.

761—411.4(321L) Removable windshield placards.

411.4(1) Nonexpiring removable windshield placards.

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a. Period of validity. A nonexpiring removable windshield placard issued on or before December 31, 2016, shall remain valid until the occurrence of any condition set forth in Iowa Code section 321L.3(1), the procedure set forth in rule 761—411.8(321L), and as otherwise specified by statute or rule.

b. Replacement. A lost, stolen, or damaged nonexpiring removable windshield placard shall be replaced with a standard removable windshield placard.

411.4(2) Standard removable windshield placards. A standard removable windshield placard may be issued only to a person with a permanent disability. A standard removable windshield placard shall not be issued to a person with a temporary disability or to an organization.

a. Period of validity. A standard removable windshield placard shall be valid for five years, and shall expire on the last day of the last month, five years from the month from which it was issued.

b. Renewal.

(1) Submission of application. A person who holds a valid standard removable windshield placard may renew the placard by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the applicant remains permanently disabled and has a continuing need for the placard.

(2) Timing of renewal application. An application to renew a standard removable windshield placard may be submitted up to 30 days before the current placard's expiration. The renewal or replacement placard shall be valid for five years, and shall expire on the last day of the last month, five years from the month from which it was issued.

411.4(3) Temporary removable windshield placards. A temporary removable windshield placard may be issued to the applicant if the application demonstrates the applicant has a temporary disability. A temporary removable windshield placard shall not be issued to an organization.

a. Period of validity. A temporary removable windshield placard shall be valid for the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued as shown by the statement of disability, but not to exceed six months.

b. Renewal.

(1) Submission of application. A person who holds a valid temporary removable windshield placard may renew the placard by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) that includes all required documentation and shows the applicant remains temporarily disabled.

(2) Timing of renewal application. An application to renew a temporary removable windshield placard may be submitted up to 30 days before the current placard's expiration. The renewal placard shall be valid for the period of time during which the applicant is expected to be disabled and the period of time for which the permit should be issued as shown by the statement of disability, but not to exceed six months.

411.4(4) Removable windshield placards for an organization. An organization may be issued a removable windshield placard. A removable windshield placard issued to an organization shall be valid for four years and shall expire on the last day of the last month, four years from the month from which it was issued. The placard shall bear the name of the organization and the signature of its authorized representative. The organization may renew a placard issued to it by submitting a persons with disabilities parking permit application pursuant to rule 761—411.3(321L) provided the organization continues to provide the service for which the placard was issued. If at any time the organization ceases providing the service for which the placard was issued, the organization shall immediately surrender the placard to the department.

411.4(5) Display of placards. A removable windshield placard shall only be displayed when the vehicle is parked in a persons with disabilities parking space. The removable windshield placard shall be displayed in a manner that allows the entire placard to be visible through the vehicle's windshield.

761—411.5(321L) Persons with disabilities special registration plate parking stickers.

411.5(1) Eligibility. A persons with disabilities special registration plate parking sticker may be issued to a person with a permanent disability who owns a motor vehicle for which the person has

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been issued disabled veteran plates under Iowa Code section 321.105 or registration plates under Iowa Code section 321.34. A special registration plate parking sticker shall not be issued to a person with a temporary disability or to an organization.

411.5(2) *Validity.* The special registration plate parking sticker shall remain valid for such period of time that the registration for the vehicle remains valid.

411.5(3) *Display.* The special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate, as required by rule 761—400.53(321).

761—411.6(321L) Persons with disabilities special registration plates. See 761—Chapter 401.

761—411.7(321L) Return of persons with disabilities parking permit. A persons with disabilities parking permit issued pursuant to this chapter and Iowa Code section 321L.2 shall be returned to the department within ten days of an occurrence of any of the events set forth in Iowa Code section 321L.3(1) and in the manner prescribed in Iowa Code section 321L.3(3).

761—411.8(321L) Revocation of a persons with disabilities parking permit.

411.8(1) *Notice of revocation.* Notice of revocation shall be in writing and shall specify the basis of the department's determination.

411.8(2) *Effective date of permit revocation.* Unless otherwise specified by statute or rule, a permit shall be considered revoked 30 days after the department's notice of revocation is served.

411.8(3) *Service of notice.* The department shall send a notice of revocation by first-class mail to the mailing address as shown on the pertinent application for a persons with disabilities parking permit.

411.8(4) *Departmental verification of service of notice.* The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department. The department's affidavit of mailing may be attested to and certified in accordance with Iowa Code section 622.1.

761—411.9(321L) Appeal.

411.9(1) A person or organization whose persons with disabilities parking permit has been revoked may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

411.9(2) The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address listed in rule 761—411.1(321L), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within ten days of the receipt of notice of revocation.

411.9(3) When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer's proposed decision regarding a revocation, the department shall stay the revocation pending resolution of the informal resolution, contested case, or appeal.

These rules are intended to implement Iowa Code sections 321L.1 to 321L.4 and 321L.8.

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ARC 3451C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.182, 321.189 and 321.190, the Iowa Department of Transportation, on October 18, 2017, adopted amendments to Chapter

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601, "Application for License," Chapter 605, "License Issuance," and Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

These amendments form a comprehensive update of the Department's rules affecting or involving the initial application for a driver's license or nonoperator's identification card to better implement and align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options and accommodate modern, electronic procedures for authenticating official documents and exchanging information. In addition, the amendments relocate requirements regarding the application for duplicate licenses from Chapter 601 to Chapter 605, which specifically addresses the issuance of duplicate licenses in rule 761—605.11(321); clarify the manner in which the Department will determine the eligibility for licensing a person who has moved to Iowa but is subject to a license or driving sanction in another state; and clarify the process for documenting a change in sex designation to ensure that a formal change in sex designation is permitted only under standards consistent with standards set forth in the Iowa Code and maintained by the Iowa Department of Public Health, applied equally and consistently to all Iowa residents who request a change in the sex designation shown on a driver's license or nonoperator's identification card.

The following explains each item in the rule making:

- Item 1 amends subrule 601.1(3) to better and more consistently implement Iowa Code chapter 321C, Interstate Drivers License Compacts. Iowa Code chapter 321C generally promotes safety ensuring that drivers will face consistent consequences for driving infractions, regardless of the state in which the infraction occurs. The compact requires that a conviction a driver receives in another state be reported to the driver's home record and be given the same effect as if the conviction occurred in the driver's home state and requires the Department to determine at the time of application for a new license whether the applicant has ever held or currently holds a license issued by another state, and to refuse licensing if the applicant held a license issued by another state but the license has been suspended or revoked because of a violation and the suspension or revocation has not terminated. In this manner the compact ensures that unsafe drivers do not go undetected by accumulating convictions in other states or skipping from state to state. However, the compact also attempts to ensure the safe mobility of drivers who have legitimately moved from one state to another and to allow the new state to give effect to its driving and licensing laws by allowing the licensing authority to grant a new license if it has been more than one year from the date the license was revoked and the licensing authority has determined it is otherwise safe to grant the applicant a driving privilege.

The Department's past practice did not fully realize the intent of the compact in two areas. First, the Department did not have a consistent method for determining whether a driver who had moved to Iowa from another state while under revocation in another state was safe to drive, and simply withheld licensing privileges so long as the driver was revoked in another state. This often left drivers who would otherwise be eligible if the offense had occurred in Iowa in limbo and without driving privileges until the revocation ended in the other state. Second, the Department interpreted this provision as only applying to a person who actually held a license in another state; if the person was subject to a revocation but never had a driving privilege, the Department refused to consider the application of the compact, which likewise left the person in limbo and without driving privileges until the out-of-state revocation ended. The amendments remedy these issues by:

- Clarifying that the Department interprets the compact as applying to persons who have held a license in another state as well as to persons who have never held a license, which ensures that the intent of the compact is consistently met for similarly situated persons.

- Confirming that if the application shows the person's license or driving privilege was revoked by another state and at least one year has passed since the revocation was imposed, the applicant may be eligible for an Iowa license provided the Department determines it would be safe to grant the application in Iowa. To consistently make that determination, the Department will consider whether the applicant would be eligible for licensing if the violation had occurred in Iowa, will apply the same period of revocation as though the offense had occurred in Iowa, and will grant licensing if the Iowa period of revocation has expired, subject to the same limitations and restrictions that would be imposed on an Iowa driver (other than imposition of a civil penalty), and contingent upon the driver demonstrating adequate

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knowledge and skill to operate a motor vehicle safely and contingent further on the driver otherwise being physically and mentally capable of safely operating a motor vehicle. This part of the amendment better aligns licensing policy with the compact and better promotes safe mobility not only by ensuring out-of-state revocations are recognized and given effect but also by allowing a return to driving on the same terms and conditions that would apply to any Iowa license holder. The amendment permits the Department to make further investigation or require further information if necessary.

- Item 2 clarifies that a participant in the “Safe at Home” program administered by the Iowa Secretary of State, which is an address confidentiality program for victims of domestic violence, sexual assault, trafficking, stalking, or violent crimes, may provide the participant’s address designated by the Secretary of State when applying for a driver’s license and aligns the Department’s rules regarding proof of address to the Department’s practice in implementing this program.

- Items 3 and 8 update implementation sentences within rules 761—601.1(321) and 761—605.11(321) to add Iowa Code section 321.13, which requires the Department to examine and determine the genuineness, regularity, and legality of every application made to the Department and which authorizes the Department to investigate or require additional information as needed to do so and to reject any application if the Department is not satisfied with the genuineness, regularity, or legality of the application or the truth of any statement made within the application, or for any other reason, when authorized by law.

- Items 4 and 11 add language to acknowledge an existing process under which an individual who has a driver’s license or nonoperator’s identification card from a foreign jurisdiction may not be required to surrender the license or card if Iowa has a letter of understanding with the foreign jurisdiction that allows the individual to retain the license or card.

- Item 5 clarifies the proof required when a person is applying for a new driver’s license. Specifically, the following amendments are adopted:

- Paragraphs 601.5(1)“b,” 601.5(5)“a” and 601.5(5)“b” are amended to acknowledge that many certified documents may no longer contain a raised seal but are still acceptable if the documents bear a certification of authenticity from the issuing agency or entity. These amendments allow the Department to accept more electronically issued documents in the future and avoid inconveniencing applicants who may not have access to a document that contains a raised seal.

- Paragraph 601.5(1)“b” and subrules 601.5(6) and 601.5(7), regarding proof of identity and date of birth, are amended to encompass situations where an issuing agency issues an entirely new certificate of birth rather than an amended certificate of birth. This amendment ensures a properly issued certificate of birth will be accepted to document a change shown in the certificate regardless of whether the certificate is marked as amended or is issued as a new document, which will avoid inconvenience to applicants.

- Subrule 601.5(2) is amended to include Internal Revenue Service Forms 1095-A, Health Insurance Marketplace Statement; 1095-B, Health Coverage; and 1095-C, Employer-Provided Health Insurance Officer and Coverage; to the list of documents that may be used to prove an applicant’s social security number. This amendment will increase the types of documents an applicant may use to prove the applicant’s social security number and decrease the chance that an applicant will not have access to an acceptable form of proof, which will also avoid inconvenience to applicants.

- Subrule 601.5(5) is amended to eliminate an outdated requirement to submit an affidavit to prove a name change. Under the amendments, an applicant who has changed the applicant’s name need only provide the legal documents showing the name change to prove the change of name, without submitting a separate affidavit, and the applicant’s request for the name change is captured electronically. This will avoid inconvenience to the applicant associated with completing a paper form and seeking a notary to attest to the application. The amendment also provides that the documentation of a name change must include the applicant’s legal name, rather than the applicant’s “full” legal name, to encompass court orders which may include an applicant’s middle initial rather than the applicant’s full legal name. This ensures the Department’s ability to accept all validly issued court orders for name change and avoids inconvenience to an applicant who might otherwise have to seek an amended order to include the applicant’s full middle name where it has not changed.

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o Subrule 601.5(6) is amended to remove the provision allowing for a court-ordered change of date of birth. There is no known procedure for obtaining a court-ordered change of date of birth.

o Subrule 601.5(7) is amended to ensure that the procedure for changing the sex designation on a person's driver's license remains consistent with the requirements of Iowa law and is applied on equal terms to all Iowa driver's license holders, whether born in Iowa or outside of Iowa. Iowa Code section 321.182 requires a driver's license applicant to provide the applicant's sex at the time of application, and Iowa Code section 321.189 requires the Department to include the applicant's sex on any driver's license issued. Policy on change of sex designation in Iowa is guided by Iowa Code section 144.23(3), which allows the state registrar to establish a new birth certificate for a person born in Iowa that shows a new sex designation when the person submits a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment, the sex designation of the person has been changed. The existing subrule 601.5(7) recognizes this process by allowing a license holder to change the sex designation that appears on the license by presenting an amended birth certificate, and also allows a license holder to change the sex designation that appears on the license by presenting a court-order change of sex designation. However, the existing subrule has produced unequal and inconsistent results for two reasons. First, the option to present an amended birth certificate has excluded similarly situated persons who were not born in Iowa, as not all states have a procedure for amending or changing a birth certificate to reflect a new sex designation. Second, the option to present a court order for change of sex designation, which was intended only to accommodate the possibility that other states might allow a change of sex designation by court order, has been mistakenly construed by some Iowa judges as creating a cause of action in Iowa for a court-ordered change of sex designation that does not otherwise exist in Iowa law, resulting in court orders for change of sex designation that lack proper legal basis or consistent standard. To correct these deficiencies, the amendment to subrule 601.5(7) eliminates the option to prove change of sex designation by court order and inserts a proof structure that treats driver's license holders born either in or outside of Iowa equally and holds them to the same standard that the Iowa Department of Public Health follows for individuals seeking to amend or acquire a new birth certificate that reflects a change of sex designation. The amendment clarifies that a license holder born in Iowa who wishes to change the sex designation on the license must present a new Iowa birth certificate that changes the sex designation, which the state registrar issues according to the standards set forth in Iowa Code section 144.23(3) and Iowa Department of Public Health's rule 641—99.20(144). A person born outside of Iowa must either present a properly amended or new identity document other than an Iowa birth certificate (a birth certificate from the birth state, Consular Report of Birth Abroad, or Certificate of Citizenship) that documents the sex designation change, or may present a notarized affidavit from a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment, the sex designation has been changed. The standards and requirements adopted for proof of change of sex designation by presentation of a notarized affidavit are identical to those set forth in Iowa Department of Public Health's rule 641—99.20(144), which ensures that similarly situated persons have equal opportunity to change the sex designation on their licenses, regardless of whether they were born in or outside of Iowa, but only within the standards for change of sex designation set forth in Iowa Code section 144.23(3). To ensure accurate and consistent application, the amendment to the subrule allows the Department to make further inquiry or investigation when necessary, requires the application for change and all documentation to be submitted centrally to Driver and Identification Services, and confirms that the change of sex designation does not effect a name change unless the license holder verifies a legal name change following the procedures in subrule 601.5(5).

• Item 6 updates rule 761—601.6(321), previously specific to parental consent, to accurately reflect that either a parent, guardian or custodian of a child may provide consent to issue a driver's license or permit to a minor. This change properly aligns the content of this rule with the content of Iowa Code section 321.184 and with the Department's practice. The amendment also removes the requirement that the form documenting the parent's consent be notarized and instead provides that the consent shall be verified by certification under penalty of perjury. Iowa Code section 321.184 does not require notarization, and removing this requirement avoids inconvenience to applicants associated with seeking a notary to complete the form and allows this document to be executed electronically in the

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future. Item 9 updates subrule 630.2(2) to make a coordinating amendment to accurately reflect that a parent, guardian or custodian of a child may provide consent to issue a nonoperator's identification card to a minor.

- Items 7 and 12 simplify the requirements for obtaining a duplicate (replacement) driver's license or nonoperator's identification card for one that is lost, stolen, or destroyed. The Department's rules previously required an applicant who needed a duplicate license or card to provide the same documents to prove legal name, date of birth and social security number that an applicant applying for a new license or card must provide. Requiring the applicant to again provide these documents is not necessary, however, because the Department already has this documentation on file for the applicant and can verify legal name, date of birth and social security number, based on information provided by the applicant, and can additionally verify the applicant's identity based on the applicant's photos on file and through the use of facial recognition technology. Accordingly, the amendments to Items 7 and 12 eliminate the requirement to re-present these proofs when an applicant requests a duplicate license or card. The amendments confirm that the Department is allowed to conduct further investigation if necessary to verify the applicant's identity and provide that the duplicate license or card shall not be issued if the applicant's identity is questionable, cannot be determined or otherwise does not match the identity of record. The updated language also provides that if the name, date of birth or social security number has changed since the previous license or card was issued, the applicant shall provide proof of the change as required by subrule 605.11(2).

- Item 10 strikes the outdated requirement that the county number indicating the county of residence appear on the nonoperator's identification card.

Notice of Intended Action for these amendments was published in the September 13, 2017, Iowa Administrative Bulletin as **ARC 3307C**. These amendments are identical to those published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code sections 321.13, 321.182, 321.184, 321.189, 321.190, 321.195 and 321C.1.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 601.1(3) as follows:

601.1(3) Out-of-state verification. Upon application for a driver's license, the department shall ascertain whether the applicant has ever held, or is the holder of, a driver's license issued by any other state.

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

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

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

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

b. If the applicant is subject to subparagraph 601.1(3) "a"(2) or has committed an offense or acted in a manner in another state which in Iowa would be grounds for revocation and it has been more than one year from the date the license or driving privilege was revoked, the department may issue the applicant

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a driver's license only upon such terms and conditions and subject to such restrictions or limitations as if the violation had been committed and the revocation imposed in Iowa. The department shall delay licensing or restrict licensing for such period of time that the applicant would be ineligible for a driving privilege or subject to a restricted driving privilege if the violation had been committed and the revocation imposed in Iowa.

(1) For purposes of determining whether it is safe to grant the applicant a driving privilege, an applicant may be determined to be safe only if the department determines all of the following:

1. The applicant has satisfied the same requirements for the grant of a driving privilege if the violation had been committed and the revocation imposed in Iowa.

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

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

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

c. If a ~~person~~ the applicant is licensed in another ~~licensing jurisdiction~~ state but does not have a current out-of-state license to surrender, the department may require an official letter from the out-of-state licensing agency before issuing a license. The official letter must verify verification of the person's applicant's driving record from the state of record, which may be accomplished electronically where possible, to assist the department in determining whether it is safe to grant the ~~person~~ applicant a license.

ITEM 2. Amend subrule 601.1(6) as follows:

601.1(6) Address. The applicant shall provide the applicant's current residential address and the applicant's current mailing address, if different from the applicant's current residential address. The applicant shall not provide as a mailing address an address for which a forwarding order with the United States Postal Service is in place. Notwithstanding anything in subrule 601.1(6), an applicant who is a participant in the "safe at home" address confidentiality program administered by the Iowa secretary of state may submit a designated address issued to the applicant by the Iowa secretary of state as the applicant's residential and mailing address.

ITEM 3. Amend rule ~~761—601.1(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.13, 321.182, 321.196 and 321C.1, Article V, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 4. Amend rule ~~761—601.2(321)~~ as follows:

761—601.2(321) Surrender of license and nonoperator's identification card. An applicant for a driver's license shall surrender all other driver's licenses and nonoperator's identification cards. This includes those issued by jurisdictions a state other than Iowa or a foreign jurisdiction, unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a driver's license electronically pursuant to ~~761—~~subrule 605.25(7) shall destroy the previous driver's license upon receipt of the renewed driver's license.

This rule is intended to implement Iowa Code section 321.182.

ITEM 5. Amend rule ~~761—601.5(321)~~ as follows:

761—601.5(321) Proofs submitted with application. A person who applies for a new Iowa driver's license or nonoperator's identification card or a duplicate license or card to replace one that is lost, stolen or destroyed, including a person who currently holds a license or card issued by another state or foreign jurisdiction, shall submit proof of identity, date of birth, social security number, Iowa residency and current residential address, and lawful status in the United States.

601.5(1) Verification of identity and date of birth. To establish identity and date of birth, an applicant must submit at least one of the following documents. The department may require additional documentation if the department believes that the documentation submitted is questionable or if the department has reason to believe that the person is not who the person claims to be.

a. No change.

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

c. to k. No change.

601.5(2) Verification of social security number.

a. Except as provided in paragraph 601.5(2) "*b.*" an applicant must present the applicant's Social Security Administration's account number card; or if a social security account number card is not available, the applicant may present any of the following documents bearing the applicant's social security number:

(1) to (4) No change.

(5) An Internal Revenue Service Form 1095-A, 1095-B or 1095-C.

b. No change.

601.5(3) and 601.5(4) No change.

601.5(5) Verification of name change. The name listed on the driver's license or nonoperator's identification card that is issued shall be identical to the name listed on the identity document submitted unless the applicant submits ~~an affidavit of name change on Form 430043. The affidavit must be accompanied by~~ the chain of legal documents necessary to show the legal change of the applicant's name from the identity document submitted to the applicant's current legal name listed on the affidavit. The following documents are acceptable:

a. Court-ordered name change. A court order must contain the applicant's prior ~~full~~ legal name, the applicant's court-ordered ~~full~~ legal name, the applicant's date of birth, and the ~~official court seal~~ court's certification of authenticity. Acceptable court orders include orders under petition for name change, orders for name change set forth in a decree of dissolution, and orders for name change set forth in a decree of adoption.

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

601.5(6) Verification of change of date of birth. The date of birth listed on the driver's license or nonoperator's identification card that is issued shall be identical to the date of birth listed on the identity document submitted unless the applicant submits a certified amended or new birth certificate that documents the change of date of birth and that meets the requirements of paragraph 601.5(1) "*b.*" ~~or submits a court-ordered date of birth change. The court order must contain the applicant's full legal name, the applicant's prior date of birth, the applicant's court-ordered date of birth, and official court seal.~~ 601.5(1) "*b.*"

601.5(7) Verification of change of sex designation. The sex designation listed on the driver's license or nonoperator's identification card that is issued shall be identical to the sex designation listed on the identity document submitted unless the applicant submits ~~does one of the following:~~

a. Applicants born in Iowa. An applicant born in Iowa must submit a certified amended or new Iowa birth certificate that documents the change of sex designation and that meets the requirements of paragraph 601.5(1) "*b.*" or submits a court-ordered change of sex designation. The court order must contain the applicant's full legal name, the applicant's date of birth, the applicant's prior sex designation, the applicant's court-ordered sex designation, and official court seal. 601.5(1) "*b.*"

b. Applicants born outside of Iowa.

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

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1. Submit a certified amended or new birth certificate from a state other than Iowa that documents the change of sex designation and that meets the requirements of paragraph 601.5(1)“b.”
 2. Submit an amended or new Consular Report of Birth Abroad that documents the change of sex designation and meets the requirements of paragraph 601.5(1)“c.”
 3. Submit an amended or new Certificate of Citizenship that documents the change of sex designation and meets the requirements of paragraph 601.5(1)“h.”
 4. Submit a notarized affidavit from a physician and surgeon or osteopathic physician and surgeon that documents all of the following:
 - The physician and surgeon or osteopathic physician and surgeon completed sex designation treatment for the applicant.
 - A description of the medical procedures that constituted the treatment.
 - As a result of the treatment, the applicant’s sex designation was permanently changed by surgery or other treatment.
 - The physician and surgeon or osteopathic physician and surgeon’s full name, address, state of medical license, and medical license number.
- (2) Pursuant to Iowa Code section 321.13, the department may make further investigation or require further information necessary to determine whether a change of sex designation occurred.
- c. Documentation.* Documentation provided under this subrule shall be submitted to Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa, 50306-9204.
- d. Name change.* A change of sex designation shall not effect a name change unless the applicant verifies a name change pursuant to subrule 601.5(5).

This rule is intended to implement Iowa Code sections 321.13, 321.182 and 321.189, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 6. Amend rule 761—601.6(321) as follows:

761—601.6(321) Parental Parent’s, guardian’s or custodian’s consent. ~~An~~ The application of an unmarried person under the age of 18 who applies for an Iowa license shall submit parental consent and birth date confirmation on years shall contain the verified consent and confirmation of the applicant’s birthday and shall be signed by either parent of the applicant, the guardian of the applicant, or a person having custody of the applicant under Iowa Code chapter 232 or 600A. Consent and confirmation shall be proved by submission of Form 430018, Parent’s Written, Guardian’s or Custodian’s Consent to Issue Privilege to Drive or Affidavit to Obtain Duplicate Driver’s License or Permit, or its equivalent in an electronic format to be determined by the department. The parent’s signature must be notarized; however, in lieu of notarization it may be witnessed by a driver’s license examiner or clerk. The signature, which may be electronic, shall be dated and shall be subject to the following verification or its equivalent: “I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.” No exception shall be made for parental the parent’s, guardian’s or custodian’s absence from Iowa. A married person under the age of 18 years shall submit an original or certified copy of a marriage certificate that meets the requirements of paragraph 601.5(5)“b” to avoid submission of the consent form.

This rule is intended to implement Iowa Code section 321.184.

ITEM 7. Amend subrule 605.11(1) as follows:

605.11(1) Lost, stolen or destroyed license. ~~To replace a valid license that is lost, stolen or destroyed, the licensee shall comply with the requirements of 761—601.5(321) provide the licensee’s full legal name, date of birth, and social security number, all of which must be verified by the department, and pay the replacement fee. A licensee subject to 761—paragraph 601.5(2)“b” shall provide the applicant’s U.S. Customs and Immigration Services number, which must be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the licensee’s identity matches the identity of record and shall not issue the replacement license if the licensee’s identity is questionable, cannot be determined, or otherwise does not match the identity of~~

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record. If the licensee's current residential address, name, date of birth, or sex designation has changed since the previous license was issued, the licensee shall comply with subrule 605.11(2).

ITEM 8. Amend rule ~~761—605.11(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.13, 321.189, 321.195 and 321.208, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 9. Amend subrule 630.2(2) as follows:

630.2(2) The applicant shall present proof of identity, date of birth, social security number, Iowa residency, current residential address and lawful status as required by rule ~~761—601.5(321)~~. Submission of ~~parental~~ parent's, guardian's or custodian's consent is also required in accordance with rule 761—601.6(321).

ITEM 10. Amend subrule 630.2(3) as follows:

630.2(3) The nonoperator's identification card shall be coded for identification only, as explained on the reverse side of the card. ~~The county number shall indicate the county of residence.~~ The card shall expire eight years from the date of issue. A card issued to a person who is a foreign national with temporary lawful status shall be issued only for the length of time the person is authorized to be present in the United States as verified by the department, not to exceed two years. However, if the person's lawful status as verified by the department has no expiration date, the card shall be issued for a period of no longer than one year.

ITEM 11. Amend subrule 630.2(11) as follows:

630.2(11) An applicant for a nonoperator's identification card shall surrender all other driver's licenses and nonoperator's identification cards, other than a temporary permit held under Iowa Code section 321.181. This includes any driver's licenses or nonoperator's identification cards issued by ~~jurisdictions~~ a state other than Iowa or a foreign jurisdiction, unless otherwise provided in a letter of understanding or other written memorialization of reciprocity or understanding. An applicant who renews a nonoperator's identification card electronically pursuant to subrule 630.2(10) shall destroy the previous nonoperator's identification card upon receipt of a renewed nonoperator's identification card.

ITEM 12. Amend subrule 630.3(1) as follows:

630.3(1) *Lost, stolen or destroyed card.* To replace a nonoperator's identification card that is lost, stolen or destroyed, the cardholder shall ~~comply with the requirements of 761—601.5(321)~~ provide the cardholder's full legal name, date of birth, and social security number, all of which must be verified by the department, and pay the replacement fee. A cardholder subject to 761—paragraph 601.5(2) "b" shall provide the applicant's U.S. Customs and Immigration Services number, which must be verified by the department. The department may investigate or require additional information as may be reasonably necessary to determine that the cardholder's identity matches the identity of record and shall not issue the replacement card if the cardholder's identity is questionable, cannot be determined, or otherwise does not match the identity of record. If the cardholder's current residential address, name, date of birth, or sex designation has changed since the previous card was issued, the cardholder shall comply with 761—subrule 605.11(2).

ITEM 13. Amend ~~761—Chapter 630~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.13, 321.189, 321.190, 321.195, 321.216, 321.216A, 321.216B and 321.216C, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[Filed 10/18/17, effective 12/13/17]

[Published 11/8/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3452C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.179 and 321.180B(5), the Iowa Department of Transportation, on October 18, 2017, adopted amendments to Chapter 635, “Motorcycle Rider Education (MRE),” Iowa Administrative Code.

The Department is making two technical amendments to strike an outdated reference to Iowa Code section 321.180B(6) and replace it with the correct reference to Iowa Code section 321.179 in subrule 635.2(1) and in the chapter’s implementation sentence.

Notice of Intended Action for these amendments was published in the September 13, 2017, Iowa Administrative Bulletin as **ARC 3305C**. These amendments are identical to those published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code sections 321.179 and 321.180B(5).

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 635.2(1) as follows:

635.2(1) Any entity providing motorcycle rider education to persons under the age of 18 for purposes of early licensing or seeking reimbursement under Iowa Code ~~subsection 321.180B(6)~~ section 321.179 for providing motorcycle rider education to persons aged 18 and older must teach the motorcycle rider education course approved by the department.

ITEM 2. Amend **761—Chapter 635**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~subsections~~ sections 321.179 and 321.180B(5) ~~and 321.180B(6)~~.

[Filed 10/18/17, effective 12/13/17]

[Published 11/8/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3453C**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 474.5, and 476.2, the Utilities Board (Board) gives notice that on October 16, 2017, the Board issued an “Order Adopting Amendments” in Docket No. RMU-2016-0007, In re: Service Supplied by Gas Utilities [199 IAC Chapter 19], amending the Board’s rules regarding natural gas service.

Notice of Intended Action was published in the March 1, 2017, Iowa Administrative Bulletin as **ARC 2956C**, and an oral comment presentation was held on April 20, 2017. The following parties participated during the oral comment presentation: the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Iowa Legal Aid (Legal Aid); MidAmerican Energy Company (MidAmerican); Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills); Interstate Power and Light Company (IPL); and the Iowa Economic Development Authority. The Board held a workshop on September 7, 2017, to solicit further discussion and comments regarding these amendments. The Board also received written comments from the aforementioned parties as well as Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (Liberty) and the Iowa Department of Human Rights (Human

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Rights). Seven other interested parties filed comments in support of a new rule regarding the expansion of natural gas service to unserved or underserved areas of the state.

The Board generally adopted the amendments published under Notice of Intended Action. However, additional changes have been made since the publication of the Notice of Intended Action, and those changes are as follows:

The Board changed “render” to “provide” throughout in an effort to use more common language. The Board is also making several other nonsubstantive changes to update archaic or outdated language for ease of readability.

The Board is amending subrule 19.3(5), relating to meter access, to include language from subrule 20.3(5) per a suggestion from OCA that was not objected to by any other party.

MidAmerican, Black Hills, IPL, and Liberty (collectively, the Rate-Regulated Utilities) proposed a new subrule regarding expansion of natural gas service to unserved or underserved rural areas in the state. Seven other interested parties filed comments in support of the proposal. OCA objected to the proposal. On May 16, 2017, the Board requested comments regarding new paragraph 19.3(10)“g” that would apply to areas of the state without current natural gas service or where service is constrained. Following additional comments from OCA and the Rate-Regulated Utilities on this issue, the Board further revised the language in an effort to balance the concerns of all interested parties as well as the needs of both current and potential new customers.

The Board modeled new paragraph 19.3(10)“g” after existing line extension rules found in subrule 19.3(10). Paragraph 19.3(10)“g” requires utilities to use a standard feasibility model approved by the Board to determine if an expansion of service into an unserved or underserved area is economically viable. The customer or customers to be served do not need to make an advance for construction if the model supports a finding that the project is viable over a period of up to 20 years. If the model does not show the expansion is economically justified over a 20-year period, a contribution in aid of construction in an amount sufficient to make the project economically justified may be made by the customer or customers. The new paragraph requires utilities to file information for Board notice rather than Board approval, and any prudence determination or recovery will not occur until a utility’s next general rate case.

The Board added the word “even” to paragraph “1” of renumbered 19.4(11)“c”(1) to more clearly indicate that the monthly payments offered under a first payment agreement must be evenly spread over the applicable period of time. The Board also added a sentence to renumbered subrule 19.4(11) to require utilities to inform customers that they may pay off an outstanding delinquency early without incurring any prepayment penalties. Additionally, the Board clarified that an oral or electronic agreement is deemed accepted by the customer once the first payment is made by the customer or on behalf of the customer by a third party. Additional minor editorial changes for clarity have also been made to this subrule.

In response to comments from MidAmerican and IPL at the September 7, 2017, workshop, the Board did not adopt the previously proposed paragraph “a” in renumbered subrule 19.4(13) that would have required utilities to show “therm reading” on customer bills. The remaining paragraphs in renumbered subrule 19.4(13) have been relettered accordingly.

The Board adopted additional changes to subparagraph 19.4(14)“d”(3) in response to comments from Human Rights. The changes primarily update the contact information for Human Rights and also add the term “weatherization.” In response to written comments from MidAmerican and OCA, the Board added language to subparagraph 19.4(15)“d”(4) to reflect that utilities need only make a diligent attempt to contact the landlord. The use of “diligent” rather than “reasonable” is to mirror the existing language in this subparagraph.

The Board amended subparagraph 19.4(15)“d”(9) to allow utilities to provide an incentive to customers to continue to make payments during the winter moratorium period so that customers are less likely to face large delinquencies and potential disconnections at the end of the moratorium period on April 1. Any such incentive program would need to be included in a utility’s tariff approved by the Board.

In its comments, Legal Aid argued for clarification to the statute of limitations language proposed for subrule 19.4(16). Legal Aid asked for clarification that the proposed language setting forth a ten-year

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period not be made retroactive. OCA agreed with Legal Aid's position, citing its position in *Seacrest v. MidAmerican Energy Co.*, Docket No. FCU-2016-0010. MidAmerican opposed this change, stating that the decision had already been made in *Property Management Group v. Black Hills Energy*, Docket No. FCU-2015-0001, to make the statute of limitations retroactive. The Board clarified that the statute of limitations is not retroactive in its June 14, 2017, order in the *Seacrest* case, and added additional language to subrule 19.4(16) to clarify that the previous five-year limitations period for oral contracts still applies to debts where that period had already expired prior to the Board's decision in Docket No. NOI-2014-0004 to switch to a ten-year statute of limitations period (absent extenuating circumstances such as fraud or deceit). The Board also made additional nonsubstantive changes to further clarify the statute of limitations language in subrule 19.4(16).

The Board amended subrules 19.10(7) and 19.11(1) based upon comments made by OCA that were not objected to by any other parties. Specifically, for subrule 19.10(7) relating to overbillings and underbillings, OCA argued that the percentage applicable to utilities serving fewer than 10,000 customers should be set at 5 percent rather than 10 percent. For subrule 19.11(1) relating to gas procurement, OCA proposed leaving in the language in existing paragraph 19.11(1)"b" requiring utilities to file the actual contracts with the Board. In the absence of any other objections, the Board adopted those proposed changes. The Board also adopted a change to 19.11(1) at the request of IPL and MidAmerican; specifically, the phrase "by customer class" now only applies to the forecasts of total annual throughput.

The Board did not adopt the proposed amendments to subrule 19.12(4), relating to flexible-rate reporting requirements. OCA opposed the proposed changes to subrule 19.12(4) because, although the Board stated it would move the requirements to Chapter 23, it was not proposing to do so concurrently with these changes. The Board agreed that it is premature to adopt the proposed amendments at this time. The Board may reconsider these amendments when it commences its rule making related to annual reports and Chapter 23 in Docket No. RMU-2016-0036.

The Board adopted changes to subrule 19.14(4) regarding deficiencies in CNGP applications. Specifically, the Board retained the 30-day period to complete deficient applications and to clarify that a failure to do so will result in the denial of the application.

The Board also received numerous comments regarding the Tracker and the proposed amendments to rule 199—19.18(476) in the Notice of Intended Action published on March 1, 2017. In response to the comments, the Board left in place language allowing government-mandated projects to be eligible for recovery through the Tracker. The Board also adopted language to allow the five-year recovery period to be changed or extended by a future Board order when circumstances warrant such an extension, and to clarify that approved recoveries may continue until the investments are fully depreciated or until the utility's next general rate case proceeding. The Board also adopted other nonsubstantive editorial changes in rule 199—19.18(476) for clarity.

The order approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System (EFS) Web site, efs.iowa.gov, in Docket No. RMU-2016-0007.

After analysis and review, the Board concludes that the amendments will not have a detrimental effect on employment in Iowa.

These amendments are intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.18, 476.20, 476.54, and 546.7.

These amendments will become effective December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 19.2(3) as follows:

19.2(3) Form and identification. All tariffs shall conform to the following rules:

a. The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency, the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity

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of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words, "Gas Tariff Filed with Board" shall apply in the modification of the federal agency format for the purposes of filing with this board. Pursuant to 199—subrule 14.5(5), tariffs filed electronically shall be formatted in accordance with this rule.

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

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

(Name of Public Utility)

Gas Tariff

Filed with

Iowa Utilities Board

(date)

~~(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)~~

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

Tariff No. _____

Supersedes Tariff No. _____

~~(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)~~

(3) and (4) No change.

c. and *d.* No change.

ITEM 2. Amend paragraph **19.2(4)“c,”** introductory paragraph, as follows:

c. A copy of the utility's rules, or terms and conditions, describing the utility's policies and practices in ~~rendering~~ providing service shall include:

ITEM 3. Amend paragraph **19.3(1)“e”** as follows:

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

ITEM 4. Rescind and reserve subrule **19.3(4)**.

ITEM 5. Amend subrule 19.3(5) as follows:

19.3(5) Meter register. If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on-premises or off-premises-automated, the customers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them. A utility may comply with the requirements of this subrule by making the required information available via the Internet or other equivalent means.

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

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

ITEM 6. Amend subrule 19.3(6) as follows:

19.3(6) Prepayment meters. Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under ~~such special rate schedule as may be filed under 19.2(4)~~ tariffs approved by the board.

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ITEM 7. Amend subrule 19.3(7) as follows:

19.3(7) Meter reading and billing interval. Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be ~~rendered~~ provided weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without ~~an exemption~~ a waiver from the board. A waiver request must include the information required by 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a large volume customer after the initial month, that customer's bill shall be ~~rendered~~ provided monthly for the next 12 months, unless prior approval is received from the board for a shorter interval. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. The utility rules may permit the customer to supply the meter readings by telephone, by electronic means, or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months and when the utility is notified there is a change of customer.

~~The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check electronic meter readings, a utility representative shall physically read the meter at least once every 12 months.~~

ITEM 8. Amend subrule 19.3(8) as follows:

19.3(8) Readings and estimates. When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bill shall be prorated on a daily basis.

When access to meters cannot be gained, the utility may leave with the customer a meter reading form. The customer may provide the meter reading by telephone, electronic mail (if it is allowed by the utility), or by mail. If the meter reading information is not returned in time for the billing operation, an estimated bill may be ~~rendered~~ provided. If an actual meter reading cannot be obtained, the utility may ~~render~~ provide an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be ~~rendered~~ provided.

The utility shall incorporate normalized weather data in its calculation of an estimated bill.

Utilities shall file with the board their procedures for calculating estimated bills, including their procedures for determining the reasonable degree-day data to use in the calculations. Utilities shall inform the board when changes are made to the procedures for calculating estimated bills.

ITEM 9. Rescind and reserve subrule **19.3(9)**.

ITEM 10. Amend paragraph **19.3(10)“a,”** definition of “Contribution in aid of construction,” as follows:

“Contribution in aid of construction,” as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a ~~distribution main extension~~ or service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

ITEM 11. Amend paragraphs **19.3(10)“e”** and **“f”** as follows:

e. Extensions not required. Utilities shall not be required to make distribution main extensions or attach service lines as described in this subrule, unless the distribution main extension or service line shall be of a permanent nature. When the utility provides a temporary service to a customer, the utility

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may require that the customer bear all of the cost of installing and removing the service in excess of any salvage realized.

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

ITEM 12. Adopt the following new paragraph **19.3(10)“g”**:

g. Areas without service or with constrained service.

(1) A utility may finance and expand natural gas service into an area of the state with no natural gas service or where capacity constraints limit the expansion of service. A utility expanding service under this paragraph may do so without requiring an advance for construction from a customer or group of customers if a standard feasibility model approved by the board shows the expansion is economically justified over a period not to exceed 20 years. The approved model will be adopted following a board proceeding in which interested parties will have the opportunity to review and comment on a model jointly proposed by the regulated gas utilities. The approved model will be made available on the board's Web site. The utility shall charge the customer or customers for actual permit fees, and the permit fees are not refundable.

(2) If the feasibility model does not show the expansion is economically justified without an advance for construction, a customer or group of customers may contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction in an amount that would make the expansion economically justified.

(3) Upon making a determination that it intends to move forward with an expansion pursuant to this paragraph, the utility shall notify the board by filing the inputs and results of the feasibility model and any associated contract or contracts with the board. The utility shall maintain separate books and records for any expansion made pursuant to this paragraph until the utility's next general rate case proceeding.

ITEM 13. Amend paragraphs **19.4(1)“c,” “d” and “f”** as follows:

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. (~~199—7.4(476)~~) (~~199—26.5(476)~~)

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility provides access to its rate schedules and rules for service on its Web site, the notice ~~should~~ shall include the Web site address.

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

ITEM 14. Rescind paragraph **19.4(1)“i”** and subrule **19.4(14)**.

ITEM 15. Renumber subrules **19.4(2)** to **19.4(13)** as **19.4(3)** to **19.4(14)**.

ITEM 16. Adopt the following new subrule 19.4(2):

19.4(2) Customer contact employee qualifications. Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: “If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321 or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by e-mail to customer@iub.iowa.gov.”

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The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by e-mail to customer@iub.iowa.gov."

The bill insert or notice on the bill form shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other natural gas utilities. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

ITEM 17. Amend renumbered subrule 19.4(7) as follows:

19.4(7) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment), unless the utility is entitled to require a new or additional deposit. For refund purposes, the account shall be reviewed after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the ~~exemption waiver~~ provided by subrule 19.3(7), including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

ITEM 18. Amend renumbered subrule 19.4(9) as follows:

19.4(9) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

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

b. and *c.* No change.

d. The applicable rate schedule ~~or~~ with the identification of the applicable rate ~~schedule~~ classification.

e. No change.

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

g. to *i.* No change.

ITEM 19. Amend renumbered subrule 19.4(10) as follows:

19.4(10) *Customer billing information alternate.* A utility serving fewer than 5000 gas customers may provide the information in ~~19.4(8)~~ 19.4(9) on bill form or otherwise. If the utility elects not to provide the information of ~~19.4(8)~~ 19.4(9) on the bill form, it shall advise the customer, on the bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

ITEM 20. Amend renumbered subrule 19.4(11) as follows:

19.4(11) *Payment agreements.*

a. and *b.* No change.

c. *Terms of payment agreements.*

(1) *First payment agreement.* ~~The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:~~

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~~1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.~~

~~2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.~~

~~3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.~~

~~4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.~~

1. For customers who received a disconnection notice or who have been disconnected less than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 12 even monthly payments. For customers who have been disconnected more than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 6 even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties.

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

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

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

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

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

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

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

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

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

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

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

1. The second payment agreement shall be for ~~the same term as or longer than~~ a term at least as long as the term of the first payment agreement.

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

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

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

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

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

ITEM 21. Amend renumbered subrule 19.4(12) as follows:

19.4(12) Bill payment terms. The bill shall be considered ~~rendered~~ provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered ~~rendered~~ provided when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the ~~rendering~~ providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 19.3(7) may not be considered delinquent less than 5 days from the date of ~~rendering~~ the bill is provided. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is ~~rendered~~ provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause, ~~in writing~~; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. to d. No change.

e. ~~Level-payment~~ Budget billing plan. Utilities shall offer a ~~level-payment~~ budget billing plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A ~~level-payment~~ budget billing plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The ~~level-payment~~ budget billing plan shall include at least the following:

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

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

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

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billing plan to a customer for six months after the customer has terminated from a level-payment budget billing plan.

(4) Use a computation method that produces a reasonable monthly level-payment budget billing amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in ~~19.4(11)“e”~~(4) this subrule. The computation method used by the utility shall be described in the utility’s tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level-payment budget billing plan.

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

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

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

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

ITEM 22. Amend renumbered subrule 19.4(13) as follows:

19.4(13) Customer records. The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with ~~19.4(13)~~ 19.4(14) but not less than ~~three~~ five years. Customer billing records shall show, where applicable:

- a. Therm consumption.
- b. Meter reading.
- c. Total amount of bill.

ITEM 23. Amend renumbered subparagraph **19.4(14)“b”(3)** as follows:

(3) Back billings shall be ~~rendered~~ provided no later than six months following the date of the metering installation test.

ITEM 24. Amend renumbered subrule **19.4(14)** by adopting the following **new** paragraph “f”:

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

ITEM 25. Amend paragraph **19.4(15)“a”** as follows:

a. The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(15)“b.” The notice shall set forth the reason for the notice and final date by which the account is to be settled or specific action taken. The notice shall be considered ~~rendered~~ provided to the customer when addressed to the customer’s last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered ~~rendered~~ provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is ~~rendered~~ provided. The date for disconnection of service for customers on shorter billing intervals under subrule 19.3(7) shall not be less than 24 hours after the notice is posted at the service premises.

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

ITEM 26. Amend subparagraph **19.4(15)“d”(3)**, introductory paragraph, as follows:

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

ITEM 27. Amend subparagraph **19.4(15)“d”(3)**, Customer Rights and Responsibilities form, paragraph “3,” as follows:

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

a. Contact the local community action agency in your area (see attached list); or visit humanrights.iowa.gov/dcaa/where-apply.

~~b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.~~

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

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

d. If you have additional questions, contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-3861.

ITEM 28. Amend subparagraph **19.4(15)“d”(3)**, Customer Rights and Responsibilities form, paragraph “7,” as follows:

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

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

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

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

ITEM 29. Amend subparagraph **19.4(15)“d”(4)** as follows:

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer’s rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the utility shall make a diligent attempt to contact the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer’s present location. The landlord shall also be informed of the date when service may be disconnected. The utility

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shall make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

ITEM 30. Amend subparagraph **19.4(15)“d”(5)** as follows:

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the ~~rendering~~ providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

ITEM 31. Amend subparagraph **19.4(15)“d”(7)** as follows:

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at ~~the a residence on any day~~ a residence when the ~~actual temperature or the 24-hour forecast of the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will~~ residence's area is predicted to be 20 degrees Fahrenheit or colder. In any case where ~~If the utility has properly posted a disconnect notice in compliance with subparagraph 19.4(15)“d”(4) but is precluded from disconnecting service because of a National Weather Service forecast severe cold weather,~~ the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection, ~~under some other provision of paragraph 19.4(15)“d.”~~

ITEM 32. Amend subparagraph **19.4(15)“d”(9)** as follows:

(9) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. A utility may develop an incentive program to delay disconnection on April 1 for customers who make payments throughout the November 1 through April 1 period. All such incentive programs shall be set forth in tariffs approved by the board.

ITEM 33. Amend paragraph **19.4(15)“f”** as follows:

f. A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph ~~19.4(10)“e”(1)“4,” 19.4(11)“c”(1)“4,”~~ provided the utility complies with the provisions of paragraph 19.4(15)“d.”

ITEM 34. Amend subrule 19.4(16) as follows:

19.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. to d. No change.

e. Failure to pay the back bill ~~rendered~~ provided in accordance with paragraph 19.4(13)“*b*” 19.4(14)“*b*” (slow meters).

f. Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(13)“*e*.” 19.4(14)“*e*.”

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g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service in the customer's name.

h. No change.

i. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of:

(1) The last date of service for the account giving rise to the delinquency,

(2) Physical disconnection of service for the account giving rise to the delinquency, or

(3) The last voluntary payment or voluntary written promise of payment made by the customer, if made before the ten-year period described in this paragraph has otherwise lapsed.

j. Delinquency in payment for service that arose on or before September 4, 2010, pursuant to an oral contract, except in cases of fraud or deception that prevented the utility from timely addressing such delinquencies with the customer.

ITEM 35. Amend subrule 19.6(6) as follows:

19.6(6) Referee tests. Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a \$30 deposit in the form of a check or money order made payable to the utility.

Within 5 days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in ~~19.4(13)~~ 19.4(14). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

ITEM 36. Amend subrule 19.10(1) as follows:

19.10(1) Purchased gas adjustment clause. ~~Purchased~~ Pursuant to Iowa Code section 476.6(11), purchased gas adjustments shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz) + Rb + E}{S}$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased ~~or transported~~ for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

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The components of the formula shall be determined as follows for each customer classification or grouping:

a. to d. No change.

ITEM 37. Amend subrule 19.10(7) as follows:

19.10(7) Reconciliation of underbillings and overbillings. The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility, and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

a. The annual reconciliation filing shall include the following information concerning the hedging tools used by the utility:

(1) The type and volume of physical gas being hedged by the utility and the strategies used by the utility for hedging.

(2) The reason the hedge each hedging strategy was undertaken (e.g., to hedge storage gas, a floating price contract).

(3) A statement as to how each hedging strategy was consistent with the local distribution company's natural gas procurement plan.

(4) An explanation as to why the local distribution company believes each hedging strategy was in the best interest of general system customers.

~~(5)~~ (5) A detailed explanation of the instruments used to implement each hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options, fixed-price purchases, future contracts, basis swaps, fixed-price swaps, call options, put options, option collars).

~~(4)~~ The date the futures contract or option was purchased or the date the swap was entered into.

~~(5)~~ The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.

(6) The amount of all commissions paid and to whom those payments were made.

~~(7)~~ All administrative costs associated with the hedge.

~~(8)~~ The name(s) of all marketers used and the amount of money paid to each marketer.

~~(9)~~ The amount of savings or costs resulting from the hedge.

~~(10)~~ (7) The amount of money tied up or other collateral held in margin accounts for futures trading and the cost of that money or provided to counterparties as credit support for hedging transactions.

(8) The amount of all other third-party administrative or contracting costs paid and to whom those costs were paid.

(9) The name of each hedging counterparty and the amount of money paid to or received from each counterparty with respect to hedging (e.g., option premiums, financial settlement of gains or losses).

(10) Detailed reports or schedules of each hedging strategy, including the following information for each hedging instrument entered into by the utility:

1. The type of hedging instrument.

2. The date on which the hedging instrument was entered into by the utility.

3. The name of the counterparty with whom the hedging instrument was entered into.

4. The notional quantity of natural gas associated with the hedging instrument.

5. The notional delivery period associated with the hedging instrument.

6. The total amount of gains or losses realized by the utility on the hedging instrument.

7. For each futures contract or fixed-price purchase or sale, the fixed price paid or received by the utility and the final settlement price for the futures contract.

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8. For each swap contract, the fixed price or index price paid by the utility, the index price or fixed price received by the utility, and the final settlement price of each applicable index referenced in the swap contract.

9. For each option contract, the underlying futures contract or index price referenced in the option contract, the strike price for the option, the premium paid or received by the utility for the option, and the final settlement price for the futures contract or index price referenced in the option.

10. For any other hedging instruments, relevant economic terms, conditions, reference prices, and other factors to support calculations of gains or losses associated with such instruments.

11. For the total natural gas volumes hedged during the PGA year, the fully hedged price of gas and the price if the gas had not been hedged.

(11) ~~The premium paid for each option.~~

(12) ~~The strike price of each option.~~

(13) ~~The contracting costs for each swap transaction.~~

(14) ~~The name of the fixed-price payer in a swap transaction.~~

(15) ~~A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.~~

(16) ~~An explanation as to why the LDC believes the hedge was in the best interest of general system customers.~~

(17) ~~All invoices, work papers, and internal reports associated with the hedge.~~

b. No change.

c. Any overbilling determined from the reconciliation shall be refunded to the customer classification or grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) ~~If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent the applicable percentage~~ of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility shall refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year. The minimum amount to be refunded by check shall be \$10. Interest shall be calculated on amounts exceeding ~~3 percent the applicable percentage~~ from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) ~~If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent the applicable percentage~~ of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

(3) The overbilling percentage applicable to utilities serving fewer than 10,000 customers is 5 percent. For utilities serving 10,000 or more customers, the applicable percentage is 3 percent.

d. No change.

ITEM 38. Amend rule 199—19.11(476), catchwords, as follows:

199—19.11(476) Periodic review of gas procurement practices ~~[476.6(15)].~~

ITEM 39. Amend subrule 19.11(1) as follows:

19.11(1) Procurement plan. ~~The~~ Pursuant to Iowa Code section 476.6(11), the board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and

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prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The board shall provide the utilities 90 days' notice of the requirement to file a procurement plan. In the years in which the board does not conduct a contested case proceeding, the board may require the utilities to file certain information for the board's review. In years in which the board conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a 3-year natural gas procurement plan. A utility's procurement plan shall be organized as follows and shall include:

- a.* and *b.* No change.
- c.* A description of the utility's natural gas forecasting, procurement, and contracting practices; available supply options; and other available services (e.g., storage services, balancing services).
- d.* An exhibit detailing the utility's current, 12-month, and 3-year forecasts of total annual throughput by customer class, peak day demand, and anticipated reserve margin on a PGA-year basis.
- e.* *e.* An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.
- f.* A summary of the legal, and regulatory, and commercial actions taken to minimize purchased gas costs.
- e. g.* All Copies of all studies or investigation reports supporting the utility's testimony or materially considered by the utility in gas purchase contract or arrangement contracting decisions during the plan periods.
- f. h.* A complete list of all contracts executed since the last procurement review in effect at the time of the procurement plan filing. The list shall include the contract term, the applicable service, and the contracted quantities.
- g.* ~~A list of other unbundled services available (for example, storage services if offered).~~
- h. i.* A description of the supply options selected by the utility and an evaluation of the reasonableness and prudence of its contracting and procurement decisions. This evaluation should show explain the relationship between forecast and procurement.

ITEM 40. Renumber subrules **19.11(4)** to **19.11(6)** as **19.11(2)** to **19.11(4)**.

ITEM 41. Amend renumbered subrule 19.11(4), introductory paragraph, as follows:

19.11(4) Executive summary. On or before August 1, ~~2003~~ of each year, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. ~~On or before August 1 each year thereafter, each natural gas utility shall file an update of the executive summary and index showing the standard and special contracts in effect on that date for the purchase, sale or interchange of gas.~~ The executive summary shall include the following information:

ITEM 42. Amend paragraph **19.12(2)"a"** as follows:

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of ~~customer~~ customers. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

ITEM 43. Amend subrule 19.12(5) as follows:

19.12(5) Rate case treatment. In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were provided made at full tariffed ~~rate~~ rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

ITEM 44. Amend subrule 19.13(3) as follows:

19.13(3) Transportation service charges. Transportation service shall be offered to at least the following classes:

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- a. Interruptible distribution service with system supply reserve.
- b. Interruptible distribution service without system supply reserve.
- c. Firm distribution service with system supply reserve.
- d. Firm distribution service without system supply reserve.

ITEM 45. Amend subrule 19.13(4) as follows:

19.13(4) *Transportation service charges and rates.* All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service shall entitle the end-user to return to the system service to the extent of the interstate pipeline capacity purchased. The charge shall be at least equal to the administrative costs of monitoring the service, plus any other costs (including but not limited to gas demand costs which are directly assignable to the end-user).

b. End-users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate ~~system~~ interstate pipeline capacity. An end-user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end-user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs (including but not limited to gas costs).

c. and d. No change.

~~e. Small volume transportation service. Rescinded IAB 4/28/04, effective 6/2/04.~~

~~f. Optional plan filing. Rescinded IAB 4/28/04, effective 6/2/04.~~

ITEM 46. Amend subrule 19.13(5) as follows:

19.13(5) *Reporting requirements.* A natural gas utility shall ~~file with the board two copies of each transportation contract entered into within 30 days of the date of execution~~ be required to provide a copy of information concerning transportation contracts upon request of the board, board staff, or the office of consumer advocate. ~~The utility may delete any information identifying the end-user and replace it with an identification number. The utility shall promptly supply the deleted information if requested by the board staff. The deleted information may be filed with a request for confidentiality, pursuant to 199 Iowa Administrative Code rule 1.9(22).~~

ITEM 47. Amend subrule **19.14(1)**, definition of "Competitive natural gas provider," as follows:

"*Competitive natural gas provider*" or "*CNGP*" means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa, and it also means an aggregator as defined in Iowa Code section 476.86. CNGP includes an affiliate of an Iowa public utility. CNGP excludes the following:

1. A public utility which is subject to rate regulation under Iowa Code chapter 476.
2. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in Iowa Code section ~~437A.3(21) "a"(1)~~ 437A.3(22) "a"(1), in which the municipally owned utility is located.

ITEM 48. Amend subrule 19.14(2) as follows:

19.14(2) *General requirement to obtain certificate.* A CNGP shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the board pursuant to Iowa Code section 476.87. ~~An exception to this requirement is a CNGP that has provided service to retail customers before April 25, 2001. A CNGP subject to this exception shall file for a certificate under the provisions of this rule on or before June 1, 2001, to continue providing service pending the approval of the certificate.~~

ITEM 49. Amend subrule 19.14(4) as follows:

19.14(4) *Deficiencies and board determination.* The board shall act on a certification application within 90 days unless it determines an additional 60 days is necessary. Applications will be considered complete and the 90-day period will commence when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applications with deficiencies that are not cured within the 30-day period will be denied. Applicants will be notified when their application is complete and the 90-day period commences.

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ITEM 50. Amend paragraph **19.14(6)“a”** as follows:

a. Customer deposits. Compliance with the following provisions shall apply to customers whose usage does not exceed 2500 therms in any month or 10,000 therms in any consecutive 12-month period.

Customer deposits – subrule ~~19.4(2)~~ 19.4(3).

Interest on customer deposits – subrule ~~19.4(3)~~ 19.4(4).

Customer deposit records – subrule ~~19.4(4)~~ 19.4(5).

Customer’s receipt for a deposit – subrule ~~19.4(5)~~ 19.4(6).

Deposit refund – subrule ~~19.4(6)~~ 19.4(7).

Unclaimed deposits – subrule ~~19.4(7)~~ 19.4(8).

ITEM 51. Amend subrule 19.15(1) as follows:

19.15(1) Applicability and purpose. This rule applies to each gas public utility, as defined in Iowa Code sections 476.1 and 476.1B. ~~Each~~ Pursuant to Iowa Code section 476.66, ~~each~~ utility shall maintain a program plan to assist the utility’s low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

ITEM 52. Rescind subrules **19.15(2)** and **19.15(6)**.

ITEM 53. Renumber subrules **19.15(3)** to **19.15(5)** as **19.15(2)** to **19.15(4)**.

ITEM 54. Amend renumbered subrule 19.15(2), introductory paragraph, as follows:

19.15(2) Notification. Each utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility’s customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other required notice may be published in a local newspaper(s) of general circulation within the utility’s service territory. A utility serving fewer than 6,000 customers may publish ~~their~~ its semiannual notices locally in a free newspaper, utility newsletter or shopper’s guide instead of a newspaper. At a minimum₂, the notice shall include:

ITEM 55. Amend renumbered subrule 19.15(3) as follows:

19.15(3) Methods of contribution. The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility. Each utility may allow persons or organizations to contribute matching funds.

ITEM 56. Amend subparagraph **19.18(1)“b”(3)** as follows:

(3) ~~Replaces or modifies existing infrastructure required by state or local government action₂ or is required to meet state or federal natural gas pipeline safety regulations₂ or to otherwise enhance safety as approved in advance by the board.~~ The utility shall make an annual filing with the board to seek advance determination of projects that meet this criterion.

ITEM 57. Rescind paragraph **19.18(1)“c.”**

ITEM 58. Amend subrule 19.18(2) as follows:

19.18(2) Determination of recovery factor. The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.18(1). The allowed rate of return shall be the approved average cost of debt from the utility’s ~~last~~ most recent general gas or electric rate review proceeding before the board. Depreciation expense shall be based upon the depreciation rates allowed by the board in the utility’s ~~last~~ most recent general gas rate review proceeding before the board.

ITEM 59. Amend subrule 19.18(3) as follows:

19.18(3) Recovery procedures.

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.18(1)“a” through an automatic adjustment mechanism, the utility is required to obtain prior board

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approval of the automatic adjustment mechanism. The utility shall file information in support of the proposed automatic adjustment mechanism that includes:

(1) to (4) No change.

(5) A description of proposed recovery procedures, if different from the procedures described in ~~paragraphs~~ paragraph 19.18(3) "c" and "d"; and

(6) No change.

b. Recovery of capital infrastructure investment costs that meet the requirements in paragraph 19.18(1) "*b*" may be made by the utility by filing a proposed tariff with a 30-day effective date no later than April 1 of each year. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. After December 13, 2017, any recovery previously approved shall be aligned with an April 1 filing period when the utility next seeks recovery under this rule. The utility shall file information in support of the proposed automatic adjustment rates that includes:

(1) ~~The government entity mandate or action, including compliance with an integrity or safety plan adopted by the gas utility to comply with any such mandate or action, that results in the gas utility project and the purpose of the project, or the safety-related reason requiring the project. Proof that the capital infrastructure investment is a project that was approved in advance by the board as specified in 19.18(1) "b"(3).~~

(2) No change.

(3) The cost of debt from the utility's most recent general gas or electric rate review proceeding before the board and the applicable depreciation rates from the utility's last most recent general gas rate review proceeding before the board.

(4) and (5) No change.

~~(6) If the capital infrastructure investment to be included in the automatic adjustment mechanism is based upon an integrity or safety plan adopted in compliance with state or federal natural gas pipeline safety regulations, describe the relationship of the capital infrastructure investment to the integrity or safety plan and the relationship of the integrity or safety plan to a specific state or federal regulation. Provide the date the state or federal regulation was adopted, any relevant compliance dates, and the date the integrity or safety plan was adopted by the utility and how the integrity or safety plan was developed.~~

c. The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff, unless otherwise ordered by the board. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be calculated by taking the total eligible investment costs for the prior calendar year divided by the actual prior calendar year's sales volumes with the necessary degree-day adjustments. The utility may also use the degree-day adjustment that the utility utilized in the most recent purchased gas adjustment annual filing or any other appropriate degree-day adjustment. The degree-day adjustment shall not be determinative of any weather-normalization adjustment in any future rate case. The calculated rate shall include a reconciliation that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered over the previous collection period. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be recovered by a fixed monthly surcharge to customers, to be determined by totaling eligible investment costs for the prior calendar year, adjusted for the reconciliation amount, then dividing the total recovery amount among customer classes based upon the utility's most recent approved cost of service study, dividing the class recovery amounts by the number of months in the recovery period, and then dividing the assigned costs by the number of customers in each respective class. The recovery amount will be limited to annual depreciation plus a return on the undepreciated balance based on the cost of debt.

d. ~~The utility shall file an annual reconciliation within 60 days of the end of the 12-month period each year after the initial year in which the automatic adjustment mechanism is implemented that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered. The reconciliation shall be for the 12-month period beginning with the effective date of the tariff. Any over-recoveries or~~

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~~under recoveries from the reconciliation shall be recovered over the ten-month period from the effective date of any adjustment required by the reconciliation.~~

e. d. Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism, including any recoveries approved under this rule prior to December 13, 2017, shall continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the board in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once temporary or final rates approved by the board in the next general rate proceeding are effective, the automatic adjustment mechanism shall reset to zero. No more than five years of capital investment recovery, including any recoveries approved prior to December 13, 2017, shall be allowed between general rate proceedings unless otherwise approved by the board. A utility may continue recoveries allowed under this rule until the investments are fully depreciated or until the utility's next general rate proceeding.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.

ARC 3454C

VOTER REGISTRATION COMMISSION[821]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3 and 2017 Iowa Acts, House File 516, the Voter Registration Commission hereby amends Chapter 2, "Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates," Chapter 3, "Lists of Registered Voters," Chapter 5, "Election Registers," and Chapter 7, "Voter Registration Mailing Address Maintenance," Iowa Administrative Code.

These amendments are necessary because of the enactment of 2017 Iowa Acts, House File 516, by the General Assembly. The Commission has determined that because of this newly enacted law, the following amendments are necessary to keep the administrative rules in compliance with the Iowa Code. House File 516 makes significant changes to elections in the state of Iowa, creating the need to update Chapters 2, 3, 5, and 7, which are chapters that contain voter registration rules of the Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3283C** on September 13, 2017. The Commission received written comments in a letter signed by several organizations. A public hearing was held on October 16, 2017, at which comments were also received. All of the written and oral comments on **ARC 3283C** stated concerns that the proposed amendments to rule 821—2.10(48A) in Item 2 of the Notice of Intended Action would effectively curtail voter registration drives. Due to the confusion that the proposed amendments in Item 2 caused, the Secretary of State recommended that the Commission not adopt the amendments in Item 2 at this time.

As a result of the feedback from the public, the Commission unanimously decided not to adopt the amendments proposed in Item 2 of **ARC 3283C**, and the remaining Items have been renumbered and the amendments in those Items approved.

The Commission voted to approve the final language.

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

These amendments are intended to implement 2017 Iowa Acts, House File 516.

These amendments will become effective December 31, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 2.8(3) as follows:

2.8(3) If the application does not include the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits

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of the applicant's social security number, and the applicant has not indicated that the applicant does not have any of these numbers, the notice described in subrule 2.8(2) shall also include the following statement:

“Your voter registration application cannot be accepted because it does not include an Iowa driver's license number, an Iowa nonoperator's identification number or the last four numbers of your social security number. You must submit a new voter registration form before you can be registered to vote in this county.

“If you have an Iowa driver's license, you must write that number on your voter registration form. If you do not have an Iowa driver's license, use the number from your Iowa nonoperator's identification card. If you do not have an identification card issued by the state of Iowa, write the last four numbers of your social security number on the form. If you don't have any of these identification numbers, please check the box next to 'NONE' on the form. Failure to provide any of the three forms of identification will require you to register to vote on election day. Please note it is a Class “D” felony to provide false information on a voter registration application.”

ITEM 2. Amend subrule 2.14(2) as follows:

2.14(2) Inactive. If either an acknowledgment mailed to the registrant pursuant to Iowa Code section 48A.26 ~~as amended by 2009 Iowa Acts, House File 475, section 17,~~ a notice mailed to the registrant pursuant to Iowa Code section 48A.27 ~~as amended by 2009 Iowa Acts, House File 475, section 18,~~ a notice mailed to the registrant pursuant to Iowa Code section 48A.28₂ ~~or~~ an absentee ballot mailed to the registrant pursuant to Iowa Code section 53.8, or a voter identification card issued pursuant to 2017 Iowa Acts, House File 516, section 18, is returned to the commissioner by the United States Postal Service as undeliverable, the registrant's status shall be changed to “inactive” status. In addition, a voter registration record shall be made “inactive” pursuant to Iowa Code section 48A.27, subsection 4, paragraph “c,” ~~as amended by 2009 Iowa Acts, House File 475, section 18,~~ during the annual NCOA process. Inactive registrations will be deleted after two general elections unless the registrant responds to a confirmation mailing pursuant to Iowa Code section 48A.27 ~~as amended by 2009 Iowa Acts, House File 475, section 17,~~ 48A.28, 48A.29 or 48A.30, requests an absentee ballot, votes in an election or submits a registration form updating the registration. Inactive registrants shall show identification when voting in person at the polling place, pursuant to Iowa Code section 49.77(3) ~~as amended by 2009 Iowa Acts, House File 475, section 33,~~ or shall restore their voter registration to “active” status pursuant to 721—21.301(53) when voting by absentee ballot.

ITEM 3. Amend paragraph **2.14(3)“c”** as follows:

c. An applicant assigned a status of “pending” shall not be activated until the applicant provides identification and proof of residence pursuant to 721—21.3(49,48A) Iowa Code section 48A.8.

ITEM 4. Amend subrule 2.15(3) as follows:

2.15(3) If all three required elements do not match, the applicant shall be assigned a status of “pending” with reason “DL or SSN Not Verified.” The applicant shall be notified that the applicant's voter registration is in pending status and the applicant will be required to show identification and proof of residence pursuant to 721—21.3(49,48A) before voting in the county. The notice shall include the following statement:

“Your voter registration application is pending because the information you provided on your application could not be verified. Your name, date of birth and identification number were compared to the Iowa driver's license records and your identification number cannot be verified.

~~“Before voting for the first time in this county, you will be required to show identification. “Any voter with a ‘pending’ registration status is required to present an acceptable photo identification and proof of residence pursuant to Iowa Code section 48A.8 in person before their ballot will be counted. You may submit identification either by showing your identification in person when you vote or by mailing a photocopy of your identification to the county auditor's commissioner's office.”~~

VOTER REGISTRATION COMMISSION[821](cont'd)

ITEM 5. Adopt the following **new** subrule 2.15(5):

2.15(5) If the application is verified, but the registered voter's name does not appear in the department of transportation-issued driver's license and nonoperator's identification card files, the commissioner shall issue a voter identification card to the registered voter's address on file pursuant to 2017 Iowa Acts, House File 516, section 18.

ITEM 6. Amend rule 821—3.10(48A) as follows:

821—3.10(48A) Driver's license numbers. The county commissioner of registration and the state registrar of voters shall remove a voter's department of transportation-issued driver's license number, ~~Iowa department of transportation-issued nonoperator's identification card number~~, voter identification number, or whole or partial social security number from a voter registration list prepared pursuant to Iowa Code section 48A.38.

ITEM 7. Amend subrule 5.1(1) as follows:

5.1(1) Election registers shall contain at least the following information:

- a. Full name.
- b. Address.
- c. Date of birth.
- d. Registration status if it is ~~not "active."~~ "pending."
- e. Political affiliation (for partisan primary elections only).

ITEM 8. Amend rule 821—7.2(48A) as follows:

821—7.2(48A) Voter registration acknowledgment card returned from mailing address as undeliverable. If a voter registration acknowledgment card or voter identification card issued pursuant to 2017 Iowa Acts, House File 516, section 18, is mailed to the mailing address listed on a voter's registration record and the acknowledgment is returned to the county registrar as undeliverable by the United States Post Office, the county registrar shall leave the voter's status as active or pending, remove the mailing address from the voter's registration record, and mail another registration acknowledgment or voter identification card to the voter's residential address. If the acknowledgment or voter identification card mailed to the voter's residential address is also returned as undeliverable by the United States Post Office, the voter's registration record shall be made inactive, and the voter shall be mailed a notice as required by Iowa Code section 48A.29, subsection 1.

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